



Government Gazette

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NEW SOUTH WALES

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LEGISLATION

Proclamations



New South Wales

Proclamation

under the

Home Building Amendment Act 2004 No 101

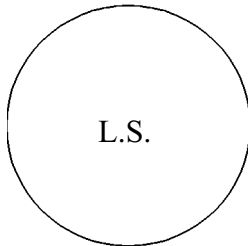
MARIE BASHIR, Governor

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 *Home Building Amendment Act 2004*, do, by this my Proclamation, appoint 1 September 2005 as the day on which the following provisions of that Act commence:

- (a) Schedule 1,
- (b) Schedule 3 [4]–[6] and Schedule 3 [8] and [9] to the extent to which those provisions insert sections 56 (h) and 56A (h), respectively, into the *Home Building Act 1989*,
- (c) Schedule 5 [1], [2] and [4].

Signed and sealed at Sydney, this 24th day of August 2005.

By Her Excellency's Command,



JOHN DELLA BOSCA, M.L.C.,
Minister for Commerce

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *Home Building Act 2004* with the exception of Schedule 5 [3], Schedule 6 [6] and [7] and Schedule 9.4. The provisions to be commenced relate to certain grounds of disqualification to hold licences and the taking of disciplinary action, home warranty insurance and the Home Warranty Insurance Scheme Board. The uncommenced provisions relate to obligations of developers in relation to insurance and the Home Building Advisory Council.



Proclamation

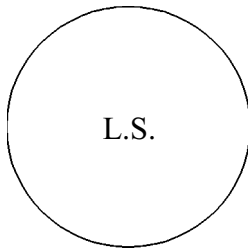
under the

Liquor Amendment (Parliamentary Precincts) Act 2004 No 57

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 *Liquor Amendment (Parliamentary Precincts) Act 2004*, do, by this my Proclamation, appoint 1 September 2005 as the day on which that Act commences.
Signed and sealed at Sydney, this 24th day of August 2005.

By Her Excellency's Command,



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

GOD SAVE THE QUEEN!



New South Wales

Proclamation

under the

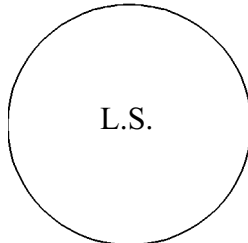
Stock Medicines Amendment Act 2004 No 89

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 *Stock Medicines Amendment Act 2004*, do, by this my Proclamation, appoint 1 September 2005 as the day on which that Act (except Schedules 1 [21], 2.2 and 2.3) commences.

Signed and sealed at Sydney, this 24th day of August 2005.

By Her Excellency's Command,



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

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence the *Stock Medicines Amendment Act 2004* on 1 September 2005, except for the following:

- (a) an amendment which repeals section 43 (Offences relating to advertising) of the *Stock Medicines Act 1989*,
- (b) Schedule 2.2 which is to commence on the day on which the *Veterinary Surgeons Act 1986* is repealed,
- (c) Schedule 2.3 which commenced on the date of assent to the Act.

Regulations



New South Wales

Ambulance Services Regulation 2005

under the

Ambulance Services Act 1990

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Ambulance Services Act 1990*.

JOHN HATZISTERGOS, M.L.C.,
Minister for Health

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Ambulance Services Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation makes provision for the following matters:

- (a) the duties of employees of the Ambulance Service, including the duty to obey orders and to wear a uniform,
- (b) the entitlements of employees who are subpoenaed or called as witnesses,
- (c) management of employee conduct and performance (these provisions have been updated to reflect other current public sector provisions),
- (d) matters relating to the election of the elected staff director of the Ambulance Service Board, including administrative matters, the calling of elections, nominations, ballots, the scrutiny and count and offences.

This Regulation is made under the *Ambulance Services Act 1990*, including section 30 (the general regulation-making power) and clause 2 of Schedule 1.

This Regulation 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.

Ambulance Services Regulation 2005

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Ambulance Services Regulation 2005

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Ambulance Services Regulation 2005

Clause 1

Preliminary

Part 1

Ambulance Services Regulation 2005

under the

Ambulance Services Act 1990

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Ambulance Services Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Ambulance Services Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

employee means a person appointed and employed by the Ambulance Service under section 13 of the Act.

supervisor means a person under whose control or supervision an employee is placed.

the Act means the *Ambulance Services Act 1990*.

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

Clause 4 Ambulance Services Regulation 2005

Part 2 Employees

Part 2 Employees

4 Lawful instructions to be obeyed

- (1) An employee must obey promptly a lawful instruction that is:
 - (a) consistent with such protocols and procedures as may be issued by the Ambulance Service from time to time, and
 - (b) given to the employee by the employee's supervisor.
- (2) An employee may appeal in writing to the Ambulance Service against an instruction given to the employee. The appeal must be made through the supervisor who gave the instruction. However, the employee must, pending the determination of the appeal, comply with subclause (1) in relation to the instruction.

5 Uniform when on duty

An employee must, when performing his or her duties, wear the uniform (if any) that the Ambulance Service determines from time to time to be the uniform for the class of employee to which the employee belongs.

6 Uniform outside hours of duty

An employee must not wear a uniform issued by the Ambulance Service except when on duty or when travelling to or from duty or with the permission of the Ambulance Service.

7 Absence from duty

- (1) An employee must not absent himself or herself from duty without the permission of the Ambulance Service or a member of staff of the Ambulance Service who is superior to the employee.
- (2) An employee who is absent from duty without leave must, as soon as practicable, furnish the employee's supervisor with an explanation of the reason for the employee's absence together with:
 - (a) if the absence exceeds 2 working days (or such shorter period as the Ambulance Service may determine in a particular case) and is due to illness, a certificate signed by a medical practitioner certifying that the employee is, because of that illness, unfit to perform the employee's duties, or
 - (b) if the absence is due to a pressing necessity requiring the employee's absence from duties, such evidence (if any) relating to the necessity as the Ambulance Service directs, either generally or in any particular case or class of cases.

Ambulance Services Regulation 2005

Clause 8

Employees

Part 2

-
- (3) Subclause (2) is subject to any award, or industrial agreement or enterprise agreement, that applies to the employee as an employee of the Ambulance Service.

8 Other employment

- (1) An employee must not, except with the written permission of the Ambulance Service, engage in any employment (whether or not for remuneration) otherwise than in connection with his or her employment by the Ambulance Service.
- (2) If an employee is the holder of any office or is engaged in any employment otherwise than in connection with his or her employment by the Ambulance Service, the employee must at once notify the Ambulance Service of that fact.
- (3) The Ambulance Service may require that employee to resign that office or abstain from engaging in that employment.
- (4) Permission given for the purposes of subclause (1) may be withdrawn by the Ambulance Service at any time. The withdrawal must be in writing given or sent to the employee.

9 Entitlements as witness in official capacity

- (1) An employee who, in his or her official capacity, is subpoenaed or called as a witness must pay any money received by the employee as a witness to the Ambulance Service.
- (2) However, the employee is entitled to be paid in full by the Ambulance Service for any time spent as a witness and, in addition, to be paid such travelling and out-of-pocket expenses as the Ambulance Service may determine.

10 Entitlements as witness in private capacity

- (1) An employee who, in his or her private capacity, is subpoenaed or called as a witness by the Crown (whether in right of a State or of the Commonwealth):
- (a) must be granted special leave of absence with pay for the period during which the employee is necessarily absent from duty, and
 - (b) must pay to the Ambulance Service any money paid to the employee as a witness (other than money paid to the employee on account of travelling and out-of-pocket expenses).
- (2) An employee who, in his or her private capacity, is subpoenaed or called as a witness, but not by the Crown (whether in right of a State or of the Commonwealth):

Clause 11 Ambulance Services Regulation 2005

Part 2 Employees

- (a) is entitled to be granted leave of absence for the period during which the employee is necessarily absent from duty, and
- (b) may retain any money paid to the employee as a witness.

11 Medical examination

- (1) The Ambulance Service may direct that an employee undergo medical examination for the purpose of ascertaining the employee's fitness to perform his or her duties. An employee given such a direction must submit himself or herself to examination by a medical practitioner approved by the Ambulance Service.
- (2) The Ambulance Service may direct an employee to undergo such medical examination as the Ambulance Service considers necessary if there is reason to believe that the health of the employee:
 - (a) may mean that the employee is a danger to other employees or to the public, or
 - (b) is likely to be seriously affected by the employee remaining on duty (or, if the employee is absent from duty, by the employee's resumption of duty).
- (3) If the Ambulance Service has given a direction to an employee under subclause (2) and has made it clear to the employee that the direction is given under that subclause, the employee (if on duty) must cease duty immediately and (in any case) must not resume duty until the completion of the medical examination.

12 Payment of increment

- (1) The payment of any increment to an employee is subject to the Ambulance Service being satisfied that the conduct of the employee and the manner in which the employee discharges his or her duties warrant that payment.
- (2) This clause is subject to any award, or industrial agreement or enterprise agreement, that applies to the employee as an employee of the Ambulance Service.

Ambulance Services Regulation 2005

Clause 13

Management of conduct and performance

Part 3

Part 3 Management of conduct and performance

Division 1 Preliminary

13 Part applies to employees (except Chief Executive Officer)

This Part applies to employees of the Ambulance Service but (unless otherwise expressly provided) does not apply to the Chief Executive Officer of that Service.

14 Objects of Part

The objects of this Part are as follows:

- (a) to protect the health and safety of the public by providing mechanisms to ensure that employees of the Ambulance Service are fit to perform their duties,
- (b) to ensure that the public interest is protected,
- (c) to maintain appropriate standards of conduct and work-related performance in the Ambulance Service,
- (d) to protect and enhance the integrity and reputation of the Ambulance Service.

15 Definitions

- (1) In this Part:

ambulance officer means an employee of the Ambulance Service who is directly involved in the provision or delivery of clinical or medical services to members of the public.

disciplinary action, in relation to an employee of the Ambulance Service, means any one or more of the following:

- (a) dismissal from the Ambulance Service,
- (b) directing the employee to resign, or to be allowed to resign, from the Ambulance Service within a specified time,
- (c) if the employee is on probation—annulment of the employee's appointment,
- (d) except in the case of a senior executive officer—reduction of the employee's classification or position,
- (e) a caution or reprimand.

internal disclosure means a disclosure made by an employee of the Ambulance Service regarding the alleged misconduct of another employee of the Ambulance Service.

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| Clause 15 | Ambulance Services Regulation 2005 |
| Part 3 | Management of conduct and performance |

misconduct includes, but is not limited to, any of the following:

- (a) a contravention (whether by act or omission) of any provision of the Act or this Regulation,
- (b) unsatisfactory professional conduct,
- (c) performance of duties in such a manner as to justify the taking of disciplinary action,
- (d) taking any detrimental action (within the meaning of the *Protected Disclosures Act 1994*) against a person that is substantially in reprisal for the person making a protected disclosure within the meaning of that Act,
- (e) taking any action against another employee that is substantially in reprisal for an internal disclosure made by that employee.

procedural guidelines means the guidelines in force from time to time under clause 16.

remedial action, in relation to an employee of the Ambulance Service, means any one or more of the following:

- (a) counselling,
- (b) training and development,
- (c) monitoring the employee's conduct or performance,
- (d) implementing a performance improvement plan,
- (e) the issuing of a warning to the employee that certain conduct is unacceptable or that the employee's performance is not satisfactory,
- (f) transferring the employee to another position in the Ambulance Service that does not involve a reduction of the employee's classification or position,
- (g) any other action of a similar nature.

senior executive officer means an employee of the Ambulance Service who is employed under a fixed term contract, the conditions of which are fixed by the Health Administration Corporation.

serious offence means an offence (whether or not committed in New South Wales) which, if committed in New South Wales, would be punishable by imprisonment for 12 months or more (whether or not in addition to a fine) in New South Wales.

traffic offence means any of the following offences:

- (a) an offence under section 25A of the *Road Transport (Driver Licensing) Act 1998* (relating to driving while disqualified or unlicensed),

Ambulance Services Regulation 2005

Clause 15

Management of conduct and performance

Part 3

- (b) an offence under section 19 (2) of the *Road Transport (General) Act 1999* (Authorised officer may require production of driver licence and name and address from driver or rider),
- (c) an offence under any of the following sections of the *Road Transport (Safety and Traffic Management) Act 1999*:
 - (i) section 9 (Presence of prescribed concentration of alcohol in person's blood),
 - (ii) section 12 (Use or attempted use of a vehicle under the influence of alcohol or any other drug),
 - (iii) section 42 (Negligent, furious or reckless driving),
 - (iv) section 43 (Menacing driving),
 - (v) section 70 (Duty to stop and give assistance where person killed or injured in road accident).

unsatisfactory professional conduct, in relation to an ambulance officer, includes any of the following:

- (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the ambulance officer in the provision or delivery of clinical or medical services to members of the public is significantly below the standard reasonably expected of an ambulance officer of an equivalent level of training or experience,
 - (b) the ambulance officer's failure without reasonable excuse to comply with a direction by the Ambulance Service to provide information with respect to a complaint under this Part against the ambulance officer,
 - (c) any other improper or unethical conduct relating to the ambulance officer.
- (2) In this Part, a reference to an allegation that an employee may have engaged in misconduct includes a reference to the Chief Executive Officer being made aware, or becoming aware, by any means that the employee may have engaged in misconduct.
- (3) For the purposes of this Part, the subject-matter of an allegation of misconduct may relate to an incident or conduct that happened:
- (a) while the employee concerned was not on duty, or
 - (b) before the employee was appointed to his or her position.

| | |
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| Clause 16 | Ambulance Services Regulation 2005 |
| Part 3 | Management of conduct and performance |

Division 2 Dealing with misconduct

16 Issuing of procedural guidelines

- (1) The Ambulance Service may, from time to time, issue guidelines for the purposes of:
 - (a) dealing with allegations of misconduct as a disciplinary matter, and
 - (b) dealing with employees of the Ambulance Service who suffer from an impairment including habitual drunkenness or addiction to a deleterious drug, and
 - (c) dealing with unsatisfactory professional conduct, and
 - (d) the taking of disciplinary action with respect to employees under this Part.
- (2) The Ambulance Service may from time to time amend, revoke or replace the procedural guidelines.
- (3) The procedural guidelines as in force from time to time must be made publicly available in such manner as the Ambulance Service thinks appropriate.
- (4) In the event of any inconsistency between a provision contained in the procedural guidelines and these Regulations (including the objects of this Part), the latter is to prevail.

17 Requirements relating to procedural guidelines

- (1) The procedural guidelines must be consistent with the rules for procedural fairness.
- (2) Without limiting subclause (1), the procedural guidelines are to ensure that:
 - (a) the employee to whom an allegation of misconduct relates is advised in writing of the alleged misconduct and that the allegation may lead to disciplinary action being taken with respect to that employee, and
 - (b) the employee is given an opportunity to respond to the allegation, and
 - (c) during any interview or inquiry that may be held in relation to the allegation, the employee may be represented by a solicitor, barrister or agent.
- (3) A formal hearing involving the calling and cross-examination of witnesses is not to be held in relation to an allegation of misconduct and the taking of disciplinary action with respect to an employee.

Ambulance Services Regulation 2005

Clause 18

Management of conduct and performance

Part 3

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- (4) However, subclause (3) does not prevent the Chief Executive Officer from:
- (a) conducting such investigations into an allegation of misconduct as the Chief Executive Officer considers necessary, or
 - (b) conducting interviews with the employee to whom the allegation relates or with any other person in connection with the matter concerned, or
 - (c) taking signed statements from the employee or any such person.

18 Dealing with allegations of misconduct

- (1) If an allegation is made to the Chief Executive Officer that an employee of the Ambulance Service may have engaged in any misconduct, the Chief Executive Officer may:
- (a) decide to deal with the allegation as a disciplinary matter in accordance with the procedural guidelines, or
 - (b) decide that it is appropriate to take remedial action with respect to the employee.
- (2) After dealing with an allegation of misconduct as a disciplinary matter in accordance with the procedural guidelines, the Chief Executive Officer may, if the Chief Executive Officer is of the opinion that the employee has engaged in any misconduct, decide to take disciplinary action with respect to the employee.
- (3) Before any disciplinary action is taken with respect to an employee under this clause, the employee must be given an opportunity to make a submission in relation to the disciplinary action that the Chief Executive Officer is considering taking.
- (4) Even though the Chief Executive Officer decides to deal with an allegation of misconduct as a disciplinary matter in accordance with the procedural guidelines, the Chief Executive Officer may, at any stage of the process:
- (a) decide to take remedial action with respect to the employee concerned, or
 - (b) decide to dismiss the allegation, or decide that no further action is to be taken in relation to the matter, or both.
- (5) A decision under this clause by the Chief Executive Officer to take remedial action with respect to an employee does not, if it appears to the Chief Executive Officer that the employee may have engaged in any misconduct while the remedial action is being taken, prevent the Chief Executive Officer from dealing with the alleged misconduct as a disciplinary matter under this clause.

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| Clause 19 | Ambulance Services Regulation 2005 |
| Part 3 | Management of conduct and performance |

Division 3 Dealing with criminal conduct

19 Offences to be reported

- (1) An employee of the Ambulance Service who is charged with having committed, or is convicted of, a serious offence must immediately report that fact in writing to the Ambulance Service.
- (2) An employee of the Ambulance Service who is required to drive a motor vehicle as part of his or her duties and who is charged with having committed, or is convicted of, a traffic offence must immediately report that fact in writing to the Ambulance Service.
- (3) The supervisor of an employee of the Ambulance Service who has reason to believe that the employee has been charged with having committed, or has been convicted of, a serious offence or traffic offence but has not reported that fact in accordance with subclause (1) or (2) must immediately report that fact to the Ambulance Service.

20 Driving disqualification to be reported

An employee of the Ambulance Service who is required to drive a motor vehicle as part of his or her duties and who is disqualified from holding a driver licence or whose licence is cancelled or suspended must immediately report the disqualification, cancellation or suspension to the Ambulance Service.

21 Disciplinary action may be taken if employee is convicted of serious offence or traffic offence

- (1) If an employee of the Ambulance Service is convicted of a serious offence, the Chief Executive Officer may:
 - (a) decide to take disciplinary action with respect to the employee, or
 - (b) decide to take remedial action with respect to the employee.
- (2) If an employee of the Ambulance Service who is required to drive a motor vehicle as part of his or her duties is convicted of a traffic offence, the Chief Executive Officer may:
 - (a) decide to take disciplinary action with respect to the employee, or
 - (b) decide to take remedial action with respect to the employee.
- (3) Before any disciplinary action is taken with respect to an employee under this clause, the employee must be given an opportunity to make a submission in relation to the disciplinary action that the Chief Executive Officer is considering taking.

Ambulance Services Regulation 2005

Clause 22

Management of conduct and performance

Part 3

- (4) A reference in subclause (1) or (2) to the conviction of an employee for a serious offence or a traffic offence includes a reference to the employee having been found guilty by a court of such an offence but where no conviction is recorded.

Division 4 Dealing with unsatisfactory performance

22 Dealing with unsatisfactory performance

- (1) If the Chief Executive Officer is of the opinion that an employee of the Ambulance Service is not performing the employee's duties in a satisfactory manner, the Chief Executive Officer may decide to take remedial action with respect to the employee.
- (2) If:
- (a) remedial action is taken with respect to an employee, and
 - (b) the Chief Executive Officer is, after the employee has been given a reasonable opportunity in which to improve his or her performance, of the opinion that the employee's performance is still unsatisfactory,
- the Chief Executive Officer may notify the employee in writing that the employee's performance is still unsatisfactory and that the employee's performance may lead to disciplinary action being taken with respect to the employee. The employee must be given an opportunity to respond to the Chief Executive Officer's opinion about the employee's performance.
- (3) The Chief Executive Officer may, after considering any response by the employee, decide to take disciplinary action with respect to the employee.
- (4) Before any disciplinary action is taken with respect to an employee under this clause, the employee must be given an opportunity to make a submission in relation to the disciplinary action that the Chief Executive Officer is considering taking.

Division 5 Miscellaneous provisions

23 Suspension of officers from duty pending decision in relation to misconduct or criminal conviction

- (1) If:
- (a) an allegation that an employee has engaged in misconduct is being dealt with as a disciplinary matter in accordance with the procedural guidelines, or
 - (b) an employee is charged with having committed a serious offence,

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| Clause 24 | Ambulance Services Regulation 2005 |
| Part 3 | Management of conduct and performance |

the Chief Executive Officer may suspend the employee from duty until the allegation of misconduct or the criminal charge has been dealt with.

- (2) The Chief Executive Officer may direct that salary payable to a person as an employee is to be withheld while the person is suspended from duty under this clause.
- (3) A direction under subclause (2) may only be given if the withholding of salary in the circumstances is consistent with any guidelines issued by the Premier in relation to the withholding of pay for suspended employees.
- (4) If:
 - (a) it is decided to take disciplinary action with respect to the person for the misconduct, or
 - (b) the person is convicted of the offence concerned,
 the salary withheld under subclause (2) is forfeited to the State unless the Chief Executive Officer otherwise directs or that salary was due to the person in respect of a period before the suspension was imposed.
- (5) If the Chief Executive Officer has suspended an employee from duty under this clause, the Chief Executive Officer may at any time remove the suspension.

24 Implementation of decisions under this Part

A decision of the Chief Executive Officer to take disciplinary action or remedial action under this Part with respect to an employee may be carried into effect at any time.

25 Appointment after reduction of employee's classification or position

Any appointment required as the result of the taking of disciplinary action comprising reduction of an employee's classification or position is to be made by the Chief Executive Officer.

26 Officers retiring or resigning before disciplinary action is taken

- (1) An allegation that an employee has engaged in misconduct may be dealt with under this Part, and disciplinary action may be taken with respect to the employee, even though the employee has retired or resigned.
- (2) The taking of disciplinary action with respect to the former employee does not affect the former employee's retirement or resignation or the benefits, rights and liabilities arising from the retirement or resignation.
- (3) Nothing in this clause affects any power under this Regulation to refuse to accept the resignation of an employee.

Ambulance Services Regulation 2005

Clause 27

Elected staff director

Part 4

Part 4 Elected staff director

Division 1 Preliminary

27 Application

This Part applies to the election of a person to hold office as the elected staff director of the Ambulance Service Board.

28 Definitions

In this Part:

casual employee means a person appointed and employed by the Ambulance Service under section 13 of the Act on a casual basis, but does not include a person employed full-time or part-time (whether for a limited term or otherwise).

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

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

Division 2 Administration of elections

29 Delegation by returning officer

The returning officer may delegate any of the returning officer's functions under this Part or Schedule 1 to:

- (a) any member of staff of the Electoral Commissioner of New South Wales, or
- (b) any employee of the Ambulance Service.

30 Decision of returning officer final

If the returning officer is permitted or required by this Part or Schedule 1 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.

31 Costs of election

- (1) The costs of conducting an election are to be paid by the Ambulance Service.

Clause 32 Ambulance Services Regulation 2005

Part 4 Elected staff director

- (2) The costs of the Electoral Commissioner of New South Wales in conducting the election are recoverable from the Ambulance Service as a debt owed to the Electoral Commissioner.

Division 3 Pre-ballot procedure

32 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.

33 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 32 (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.

Ambulance Services Regulation 2005

Clause 34

Elected staff director

Part 4

34 Notification of Chief Executive Officer

- (1) The returning officer must notify the Chief Executive Officer in writing that an election is to be held.
- (2) The returning officer must also notify the Chief Executive Officer in writing of the times and dates fixed:
 - (a) for the close of nominations, and
 - (b) for the determination of the order of candidates, and
 - (c) for the close of the ballot, including any later times and dates.

35 Nomination

- (1) For a nomination for election to be valid:
 - (a) it must be valid in terms of clause 2 (4) of Schedule 1 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 a valid nomination reaches the returning officer, the nominee becomes a candidate for election.

36 Withdrawal of nomination

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

37 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 organisations to which the person belongs,
 - (d) any offices that the person holds apart from those in which the person is employed by the Ambulance Service,
 - (e) up to 50 words of additional material relevant to the person's candidature.

Clause 38 Ambulance Services Regulation 2005

Part 4 Elected staff director

- (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.

38 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.

39 Electoral roll

- (1) If a ballot is to be held, the returning officer is to notify the Chief Executive Officer 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 Ambulance Service (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 to which an employee's ballot paper is to be sent 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.
- (5) The returning officer is to allow any employee of the Ambulance Service to inspect the roll without charge during the normal office hours of the returning officer.

Ambulance Services Regulation 2005

Clause 40

Elected staff director

Part 4

40 Casual employees may enrol

- (1) A person who is a casual employee may apply in writing to the Chief Executive Officer to be included on the roll for an election.
- (2) The Chief Executive Officer must include the person on the roll if:
 - (a) the application is received by the officer between the first publication of notice of the election (in a daily newspaper circulating generally in New South Wales) and the close of nominations, and
 - (b) the person is still an employee of the Ambulance Service at the close of nominations.

Division 4 Ballot

41 Type of ballot

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

42 Order of candidates on ballot-papers

- (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 person 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

Clause 43 Ambulance Services Regulation 2005

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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.

43 Form of ballot-papers

- (1) The name of the candidate that has been 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 that has been next taken from the ballot-box is to be shown immediately below the name of the candidate that has been 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 two 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.

44 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.

Ambulance Services Regulation 2005

Clause 45

Elected staff director

Part 4

-
- (3) The returning officer must send to each elector also:
- (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.

45 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.

46 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.

Division 5 Scrutiny

47 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.

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Part 4 Elected staff director

48 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 any inquiries that 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.

49 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.

50 Scrutiny and count of votes

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

- (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.

Ambulance Services Regulation 2005

Clause 51

Elected staff director

Part 4

51 Formality

- (1) A ballot-paper of an elector 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 which, 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 two 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.

52 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.
- (2) The returning officer is to publish notice of the result of the election in the Gazette.

Division 6 Miscellaneous

53 Voting not compulsory

Voting is not compulsory.

54 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 (7) of Schedule 1 to the Act provides that the Minister may appoint a person if an election fails.

Clause 55 Ambulance Services Regulation 2005

Part 4 Elected staff director

55 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 Part and Schedule 1.

56 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.
- (2) If there was a ballot, the officer is to make two parcels:
 - (a) one parcel containing the marked and unmarked ballot-papers, together with the copies of the roll that were actually used, and
 - (b) the other parcel containing the other papers used in the election.
- (3) 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.
- (4) The Electoral Commissioner of New South Wales is to have each parcel kept securely for at least 12 months, and then destroyed.

57 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.
- (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 Part or Schedule 1.
Maximum penalty: 5 penalty units.

Ambulance Services Regulation 2005

Clause 58

Miscellaneous

Part 5

Part 5 Miscellaneous

58 Prescribed function of Ambulance Service

The function of providing assistance to or co-operating with any person or organisation in connection with the depiction of ambulance services in the news or entertainment media is prescribed for the purposes of section 12 (2) of the Act.

59 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Ambulance Services Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Ambulance Services Regulation 2005

Schedule 1 Counting of votes

Schedule 1 Counting of votes

(Clause 50)

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 the unrejected ballot-papers 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 candidate next in the order of the elector's preference is repeated until one candidate has received an absolute majority of votes,

Ambulance Services Regulation 2005

Counting of votes

Schedule 1

-
- (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 on 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 must write the names of the candidates who have equal numbers of votes on similar slips of paper. The returning officer must then fold the slips so as to prevent the names being seen, mix them, and draw one slip at random.

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.



New South Wales

Animal Research Regulation 2005

under the

Animal Research Act 1985

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Animal Research Act 1985*.

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

Explanatory note

The object of this Regulation is to replace the *Animal Research Regulation 1995* which is to be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) the qualifications to be held by certain members of the Animal Research Review Panel (Part 2),
- (b) the constitution and procedure for ethics committees and ethics subcommittees (Part 3),
- (c) matters relating to accreditation and licensing (Divisions 1–4 of Part 4),
- (d) exemptions from the requirements for accreditation and licensing (Division 5 of Part 4),
- (e) other matters of a minor nature (Parts 1 and 5).

This Regulation is made under the *Animal Research Act 1985*, including section 62 (the general regulation-making power) and the other sections referred to in the Regulation.

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

Animal Research Regulation 2005

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Animal Research Regulation 2005

under the

Animal Research Act 1985

Part 1 Preliminary

1 Name of Regulation

This Regulation may be cited as the *Animal Research Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Animal Research Regulation 1995* which is repealed on 1 September 2005 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.

Director-General means the Director-General of the Department of Primary Industries.

ethics committee means an animal care and ethics committee.

ethics subcommittee means an animal care and ethics subcommittee.

impounding authority means:

- (a) an impounding authority within the meaning of the *Impounding Act 1993*, or
- (b) a pound operator within the meaning of the *Companion Animals Act 1998*.

Panel means the Animal Research Review Panel constituted by the Act.

prescribed offence means:

- (a) an offence under the Act, the *Exhibited Animals Protection Act 1986*, the *Prevention of Cruelty to Animals Act 1979*, the *National Parks and Wildlife Act 1974* or the *Non-Indigenous Animals Act 1987* (or under the regulations in force under any of those Acts), or

Animal Research Regulation 2005

Clause 4

Preliminary

Part 1

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- (b) an offence committed in New South Wales for which the penalty (or maximum penalty) is imprisonment for 2 years or more, or
 - (c) an offence committed outside of New South Wales that, if committed in New South Wales, would have been an offence referred to in paragraph (a) of this definition, or
 - (d) an offence committed outside of New South Wales that, if committed in New South Wales, would have been an offence for which the penalty (or maximum penalty) is imprisonment for 2 years or more.

school means a government school or non-government school within the meaning of the *Education Act 1990*.

school-based establishment means a corporation that carries on, or proposes to carry on, the business of animal research solely to allow animal research to be carried out at a school.

the Act means the *Animal Research Act 1985*.

the Australian Code means the document entitled *Australian code of practice for the care and use of animals for scientific purposes* and published by the Australian Government.

- (2) Words and expressions that are defined in the Australian Code have the same meanings in this Regulation as they have in that Code.

4 Code of Practice

The provisions of:

- (a) the Australian Code, and
- (b) Schedule 1 to this Regulation,

are prescribed as a Code of Practice for the purposes of section 4 of the Act.

Clause 5 Animal Research Regulation 2005

Part 2 Animal Research Review Panel

Part 2 Animal Research Review Panel

5 Qualifications of certain members of the Panel: sec 6

- (1) For the purposes of section 6 (2) (a) of the Act, the prescribed qualifications for persons nominated by the New South Wales Vice Chancellors Conference are:
 - (a) experience in animal research, and
 - (b) involvement in animal welfare.
- (2) For the purposes of section 6 (2) (b) of the Act, the prescribed qualification for persons nominated by Medicines Australia is experience in animal research.
- (3) For the purposes of section 6 (2) (c) of the Act, the prescribed qualification for persons nominated by the Royal Society for the Prevention of Cruelty to Animals, New South Wales, is membership of the Society as at the date of nomination.
- (4) For the purposes of section 6 (2) (d) of the Act, the prescribed qualification for persons nominated by the Animal Societies' Federation (NSW) is membership of a member group of the Federation as at the date of nomination.

Animal Research Regulation 2005

Clause 6

Animal care and ethics committees and subcommittees

Part 3

Part 3 Animal care and ethics committees and subcommittees

6 Constitution and procedure for ethics committees for accredited research establishments and licensed animal suppliers and for holders of animal research authorities

- (1) The following ethics committees must have at least 4 members:
 - (a) an ethics committee for an accredited research establishment,
 - (b) an ethics committee for a licensed animal supplier,
 - (c) an ethics committee appointed by the Director-General for the purpose of supervising the animal research carried out by holders of animal research authorities.
- (2) At least one of the members of each committee must be a person who fulfils the requirements of section 13 (5) of the Act (independence and no involvement with animal research).
- (3) In addition to the requirements of subclauses (1) and (2):
 - (a) the membership of each ethics committee must comply with the requirements of Clauses 2.2.2–2.2.8 of the Australian Code, and
 - (b) if an ethics committee has more than 4 members—at least one third of those members must fall within the membership Categories C and D specified in Clause 2.2.2 of the Australian Code.
- (4) Schedule 2 has effect with respect to the constitution and procedure of the committee.

7 Constitution and procedure for ethics subcommittees

- (1) A subcommittee of an ethics committee must include at least one member of the ethics committee.
- (2) The procedures to be followed by an ethics subcommittee are the same as those to be followed by the ethics committee by which it is appointed.

Clause 8 Animal Research Regulation 2005

Part 4 Accreditation and licensing

Part 4 Accreditation and licensing

Division 1 Applications for accreditation: sec 18

8 Prescribed particulars

- (1) For the purposes of section 18 (2) (b) of the Act, the particulars to be included in an application for accreditation as a research establishment are as follows:
 - (a) the full names of the directors of the corporation,
 - (b) if the corporation or any director of the corporation has been convicted, in the 3 years immediately preceding the application, of a prescribed offence—details of the offence and any penalty imposed,
 - (c) if the corporation is not a corporation referred to in paragraph (d)—such other particulars as are required by the approved form,
 - (d) if the corporation is the Department of Education and Training, the Association of Independent Schools, the Catholic Education Commission (New South Wales) or a school-based establishment—such other particulars as are required by the approved form.
- (2) The particulars referred to in subclause (1) (c) must include all of the following matters:
 - (a) particulars of the ethics committee for the corporation, including the qualifications of its members and terms of reference, meetings, decisions and procedures of, and inspections made by, the committee,
 - (b) a description of the areas where animals for research or supply are or will be housed or used, the facilities and accommodation provided or intended to be provided for each species of animal, the number of animals held at the time of application and the annual turnover of each species,
 - (c) the number of holders or proposed holders of animal research authorities supervised by the ethics committee for the corporation,
 - (d) the number of staff involved in the care of animals for research and any training programs provided or intended to be provided for such staff,
 - (e) particulars of the animal care, husbandry and research procedures adopted by the corporation,
 - (f) a list of the suppliers of animals to the corporation.

Animal Research Regulation 2005

Clause 9

Accreditation and licensing

Part 4

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- (3) The particulars referred to in subclause (1) (d) must include all of the following matters:
- (a) particulars of the ethics committee for the corporation, including the qualifications of its members and terms of reference, meetings, decisions and procedures of, and inspections and activities undertaken by, the committee,
 - (b) the name and address of the school or schools at which animal research is carried out,
 - (c) a description of the areas where animals for research are or will be housed or used, the facilities and accommodation provided or intended to be provided for each species of animal, the number of animals held at the time of application and the annual turnover of each species,
 - (d) a list of the suppliers of animals to the school or schools.

9 Prescribed fee

- (1) For the purposes of section 18 (2) (d) of the Act, the prescribed fee to accompany an application for accreditation as a research establishment is:
- (a) if the holders or proposed holders of animal research authorities referred to in clause 8 (2) (c) are less than 10—\$250, or
 - (b) if the holders or proposed holders of animal research authorities referred to in clause 8 (2) (c) are 10 or more (but not more than 75)—\$500, or
 - (c) if the holders or proposed holders of animal research authorities referred to in clause 8 (2) (c) are more than 75—\$1500.
- (2) A corporation is exempt from the operation of section 18 (2) (d) of the Act, and therefore from payment of the prescribed fee, if:
- (a) the corporation is a school, or
 - (b) the accreditation is only for the purpose of allowing animal research to be carried out in a school or schools.

10 Changes in particulars to be notified

- (1) A corporation that is an accredited research establishment must give written notice to the Panel of a notifiable detail within 30 days of any of the following events:
- (a) a change in the directors of the corporation,
 - (b) a change in the membership of the corporation's ethics committee,

Clause 11 Animal Research Regulation 2005

Part 4 Accreditation and licensing

- (c) any prescribed offence of which the corporation or any director of the corporation is convicted.

Maximum penalty: 10 penalty units.

- (2) In this clause, a *notifiable detail* means:

- (a) in the case of a change in directors—details of the change, or
(b) in the case of a change in the membership of an ethics committee—details of the change, or
(c) in the case of a prescribed offence of which the corporation or a director of the corporation is convicted—details of the offence and of any penalty imposed.

Division 2 Applications to Director-General for animal research authorities: sec 25A

11 Prescribed particulars

For the purposes of section 25A (2) (b) of the Act, the particulars to be included in an application to the Director-General for an animal research authority are the matters listed in Clause 2.2.16 of the Australian Code.

12 Prescribed fee

For the purposes of section 25A (2) (f) of the Act, the prescribed fee to accompany an application to the Director-General for an animal research authority is \$500.

13 Changes in particulars to be notified

The holder of an animal research authority issued by the Director-General must give written notice to the Director-General of details of any prescribed offence of which the holder is convicted, and any penalty imposed, within 30 days of the conviction or imposition of any such penalty (whichever is the later).

Maximum penalty: 10 penalty units.

Division 3 Applications to accredited animal research establishment for animal research authorities: secs 25B and 25C

14 Prescribed particulars

For the purposes of section 25B (2) (a) of the Act, the particulars to be included in an application to an accredited research establishment for an animal research authority are the matters listed in Clause 2.2.16 of the Australian Code.

Animal Research Regulation 2005

Clause 15

Accreditation and licensing

Part 4

15 Prescribed maximum fee

For the purposes of section 25C (2) of the Act, the prescribed maximum fee is \$500.

16 Changes in particulars to be notified

The holder of an animal research authority issued by an accredited research establishment must give written notice to the establishment of details of any prescribed offence of which the holder is convicted, and any penalty imposed, within 30 days of the conviction or imposition of any such penalty (whichever is the later).

Maximum penalty: 10 penalty units.

17 Prescribed period and particulars for keeping of records of research by independent researchers: sec 25C (3)

For the purposes of section 25C (3):

- (a) the prescribed period is 7 years after the application is made, and
- (b) the prescribed particulars are as follows:
 - (i) the applicant's full name, postal address and contact telephone and facsimile numbers (if any),
 - (ii) the location of any premises used for the holding of animals for use in the research,
 - (iii) the types of animals held,
 - (iv) the name and identifying number of the research project concerned,
 - (v) the species of animals used by the applicant for research,
 - (vi) the type of research being conducted by the applicant,
 - (vii) whether the research was approved, approved subject to conditions or not approved by the ethics committee of the accredited research establishment.

Division 4 Applications for animal suppliers' licences: sec 37

18 Prescribed particulars

- (1) For the purposes of section 37 (2) (b) of the Act, the particulars to be included in an application for an animal supplier's licence are:
 - (a) if the applicant (or, in the case of an applicant that is a corporation, any director of the corporation) has been convicted, in the 3 years immediately preceding the application, of a prescribed offence—details of the offence and any penalty imposed,
 - (b) such particulars as are required by the approved form.

Clause 19 Animal Research Regulation 2005

Part 4 Accreditation and licensing

- (2) The particulars referred to in subclause (1) (b) must include all of the following matters:
- (a) the full name of any manager or proposed manager of the applicant's animal supply operations,
 - (b) particulars of the ethics committee for the applicant, including the qualifications of its members and terms of reference, meetings, decisions and procedures of, and inspections made by, the committee,
 - (c) a description of the areas where animals for supply are or will be housed and the facilities and accommodation provided or intended to be provided for each species of animal,
 - (d) the number of staff involved in the care of animals,
 - (e) particulars of the animal care and husbandry procedures adopted by the applicant,
 - (f) reproductive data for each species of animal supplied or intended to be supplied, the number of animals held at the time of application and the annual turnover of each species,
 - (g) a list of the persons to whom animals have been supplied by the applicant for use in connection with animal research and sources from which animals have been acquired or are intended to be acquired by the applicant for the purpose of supply.

19 Prescribed fee

- (1) For the purposes of section 37 (2) (d) of the Act, the fee to accompany an application for an animal supplier's licence is \$200.
- (2) A school is exempt from the operation of section 37 (2) (d) of the Act, and therefore from payment of the prescribed fee, if:
 - (a) the school requests the exemption, and
 - (b) the Minister is satisfied, on the advice of the Director-General, that requiring payment of the fee would be an unreasonable imposition on the school.

20 Changes in particulars to be notified

- (1) The holder of an animal supplier's licence must give written notice to the Panel of a notifiable detail within 30 days of any of the following events:
 - (a) in the case of a corporation—a change in the directors of the corporation,
 - (b) a change in the membership of the licence holder's ethics committee,

Animal Research Regulation 2005

Clause 21

Accreditation and licensing

Part 4

- (c) any prescribed offence of which the holder (or, in the case of a corporation, any director of the corporation) is convicted.

Maximum penalty: 10 penalty units.

- (2) In this clause, a *notifiable detail* means:
- (a) in the case of a change in directors—details of the change, or
 - (b) in the case of a change in the membership an ethics committee—details of the change, or
 - (c) in the case of a prescribed offence of which the corporation or a director of the corporation is convicted—details of the offence and of any penalty imposed.

Division 5 Exemptions

21 Certain schools may carry on business of animal research without accreditation: sec 46

- (1) A non-government school is exempted from the operation of section 46 (1) of the Act with respect to the carrying on of the business of animal research:
- (a) if the school belongs to, or is associated with, a relevant Association that is accredited under the Act, and
 - (b) so long as any animal research carried out at the school is carried out with the authority of an ethics committee for the relevant Association and in accordance with the Code of Practice.
- (2) In this clause, *relevant Association* means any of the following:
- (a) the Association of Independent Schools of NSW,
 - (b) the Catholic Education Commission NSW.

22 School students may carry out animal research without authorities: sec 47

A student at a school is exempted from the operation of section 47 (1) of the Act with respect to the carrying out of animal research, so long as the animal research is carried out under the supervision, and in accordance with the directions, of the holder of an animal research authority.

23 Animals may be supplied to holders of animal supply licences: sec 48

A person is exempted from the operation of section 48 (1) of the Act with respect to the supply to a licensed animal supplier of animals for use in connection with animal research, so long as the person complies with the requirements of Part 3 of Schedule 1.

Clause 24 Animal Research Regulation 2005

Part 5 Miscellaneous

Part 5 Miscellaneous

24 Definition of “corporation”: sec 3

For the purposes of paragraph (b) of the definition of *corporation* in section 3 (1) of the Act, the following bodies of persons are prescribed:

- (a) the Association of Independent Schools of NSW,
- (b) the Catholic Education Commission NSW.

25 Definition of “exempt animal”: sec 3

For the purposes of paragraph (a) of the definition of *exempt animal* in section 3 (1) of the Act, the animals referred to in Schedule 3 are prescribed, but only in relation to a procedure, test, experiment, inquiry, investigation or study referred to in that Schedule in relation to such an animal.

26 Form of inspector’s certificate of identification: sec 49

For the purposes of section 49 (5) of the Act, the form of an inspector’s certificate of identification is set out in Form 1 in Schedule 4.

27 Records to be kept

- (1) This clause applies to the following persons:
 - (a) accredited research establishments (other than a school-based establishments),
 - (b) holders of animal research authorities.
- (2) A person to whom this clause applies must, by 31 March in each year, send a report to the Director-General on the person’s work and activities during the period of 12 months ending on 31 December in that year.
Maximum penalty: 10 penalty units.
- (3) In the case of an accredited research establishment whose ethics committee supervises the carrying out of animal research by an independent researcher, the report must include information relating to the independent researcher’s work and activities.
- (4) The report must be in the approved form.

28 Prescribed period and particulars for keeping of records of approvals of lethality tests: sec 56A

For the purposes of section 56A:

- (a) the prescribed period is 7 years after the record is made, and

Animal Research Regulation 2005

Clause 29

Miscellaneous

Part 5

-
- (b) the prescribed particulars in relation to each lethality test that is approved are as follows:
- (i) the species of animal concerned,
 - (ii) the number of animals concerned,
 - (iii) the type of procedure,
 - (iv) the justification for the approval,
 - (v) any alternatives or modifications being developed to replace the need to carry out the lethality test.

29 Waiver and refund of fees

The Director-General may waive or refund all or part of any fee payable under the Act or this Regulation in any circumstances the Director-General considers appropriate.

30 Savings

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

Animal Research Regulation 2005

Schedule 1 Supplementary provisions of the Code of Practice

Schedule 1 Supplementary provisions of the Code of Practice

(Clause 4)

Part 1 Additional conditions to be observed in relation to animal research conducted in schools

1 Functions of ethics committees

- (1) An ethics committee for a school has the function of preparing, in consultation with the Panel, a list of approved procedures that links each procedure with an appropriate educational objective.
- (2) A proposal is not to be considered by the ethics committee unless it includes the following information:
 - (a) the matters listed in clause 2.2.16 of the Australian Code, and
 - (b) the name of the animal welfare liaison officer.
- (3) An ethics committee must ensure that a list of its approved procedures is sent to each school under its supervision.

2 Animal welfare liaison officer

- (1) For each school there is to be an animal welfare liaison officer.
- (2) The animal welfare liaison officer for a primary school is to be the Principal for the school.
- (3) The animal welfare liaison officer for a secondary school is to be such person as the Principal for the school may appoint.

3 Responsibilities of animal welfare liaison officers

The duties of the animal welfare liaison officer are as follows:

- (a) to submit proposals for teaching procedures that involve the use of animals for the approval of the ethics committee for the school,
- (b) to liaise with the ethics committee for the school on all matters concerning teaching procedures that involve the use of animals,
- (c) to ensure that all teaching procedures at the school that involve the use of animals comply with the requirements of this Part,
- (d) to ensure that appropriate records are kept of all animal research carried out at the school,
- (e) to promote awareness of the requirements of this Part within the school.

Animal Research Regulation 2005

Supplementary provisions of the Code of Practice

Schedule 1

4 Responsibilities of class teacher

A class teacher who uses animals in the course of teaching must ensure that any activity involving the animals that is included on the relevant list of approved procedures is to be entered in a school register, together with the teacher's name.

Part 2 Conditions to be observed by licensed animal suppliers in relation to dogs and cats generally

5 Application of Part

This Part applies to dogs and cats only.

6 Animals to be held by supplier for at least 5 days

No animal may be supplied for animal research until it has been held for at least 5 working days by the licensed animal supplier.

7 Veterinary examination

- (1) Each animal must be examined by a competent person within 24 hours of arrival, and at least daily thereafter, until it is supplied for animal research.
- (2) Immediate veterinary attention must be sought for any animal that shows any of the following signs:
 - (a) nasal discharge,
 - (b) ocular discharge,
 - (c) coughing,
 - (d) vomiting,
 - (e) diarrhoea,
 - (f) convulsions,
 - (g) lameness,
 - (h) inability to stand or walk,
 - (i) bleeding.
- (3) Within 3 days of arrival, each animal must be given a comprehensive clinical examination by a veterinary surgeon and any vaccination or treatment, including the humane killing of the animal, considered necessary by a veterinary surgeon, to ensure that no animal that is injured, sick or unsuitable is supplied for animal research.

Animal Research Regulation 2005

Schedule 1 Supplementary provisions of the Code of Practice

8 Keeping of records

- (1) A licensed animal supplier must ensure that the approved records are kept for each animal acquired by the supplier.
- (2) Those records are to include the documents referred to in Part 3 in relation to the animal.
- (3) The records for an animal:
 - (a) must be prepared within 24 hours of the animal being received by the supplier, and
 - (b) must be readily accessible to such of the supplier's staff as have responsibilities in relation to the animal.
- (4) The results of any examination on an animal, details of any vaccination or treatment given to an animal and (if the animal dies) the date on which it died and the cause of its death must be entered on the records for the animal.
- (5) The records for an animal must accompany the animal when it is supplied for animal research.

9 Release of animals

- (1) A licensed animal supplier:
 - (a) must release an animal to its previous owner on receiving adequate proof of that ownership, and
 - (b) may release an animal to any other person.
- (2) In the event that an animal is released, the licensed animal supplier must enter the following particulars on the records for the animal:
 - (a) the date on which the animal was released,
 - (b) the full name of the person who authorised the animal's release,
 - (c) the full name and address of the person to whom the animal was released.

Part 3 Conditions to be observed in relation to the supply of dogs and cats to licensed animal suppliers**10 Application of Part**

This Part applies to dogs and cats only.

Animal Research Regulation 2005

Supplementary provisions of the Code of Practice

Schedule 1

11 Animals supplied by persons generally

- (1) A person may supply to a licensed animal supplier, and a licensed animal supplier may accept from any person, any animal for use in connection with animal research, but only if the animal is accompanied by a document that complies with subclause (2).
- (2) The document referred to in subclause (1) must contain the following particulars:
 - (a) the species, breed or type, sex, approximate estimated age, and colour of the animal,
 - (b) details of any identification on the animal at the time of supply,
 - (c) proof of identification (including full name and address) of the person supplying the animal,
 - (d) a declaration signed and dated by the person supplying the animal, which states:

I am the owner/authorised agent of the owner of the animal described above, and I hereby give my approval to it being supplied alive for use in research conducted in accordance with the *Animal Research Act 1985* which governs the conditions under which animal research may be conducted.
- (3) Despite subclause (1), an impounding authority may not supply to a licensed animal supplier, and a licensed animal supplier may not accept from an impounding authority, any animal for use in connection with animal research.
- (4) Subclause (3) applies not only to supply effected directly but also to supply effected indirectly by means of an agent or intermediary.

Part 4 Miscellaneous

12 Delegation of functions of ethics committees

An ethics committee may delegate any of its functions to its ethics subcommittees other than the following functions relating to research proposals:

- (a) considering the proposal,
- (b) approving, or refusing to approve the proposal,
- (c) revoking a previous approval of a proposal.

Animal Research Regulation 2005

Schedule 2 Constitution and procedure of ethics committees

Schedule 2 Constitution and procedure of ethics committees

(Clauses 6 and 7)

Part 1 Provisions with respect to constitution

1 Chairperson of the ethics committee

- (1) Of the members of the ethics committee one must be appointed as Chairperson of the ethics committee.
- (2) A person who is the Chairperson is taken to have vacated office as Chairperson if the person:
 - (a) resigns that office by instrument in writing addressed to the ethics committee, or
 - (b) ceases to be a member of the ethics committee.

2 Term of office

Subject to this Schedule, a member of the ethics committee holds office for such term as is specified in his or her instrument of appointment.

3 Filling of vacancy in office of member

If the office of any member of the ethics committee becomes vacant, a person must, subject to this Regulation, be appointed to fill the vacancy.

4 Casual vacancies

- (1) A member of the ethics committee is taken to have vacated office if the member:
 - (a) dies, or
 - (b) absents himself or herself from 4 consecutive meetings of the ethics committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the ethics committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the ethics committee for being absent from those meetings, or
 - (c) becomes a mentally incapacitated person, or
 - (d) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or

Animal Research Regulation 2005

Constitution and procedure of ethics committees

Schedule 2

-
- (e) resigns the office by instrument in writing addressed to the ethics committee.

Part 2 Provisions relating to procedure

5 General procedure

The procedure for the calling of meetings of the ethics committee and for the conduct of business at those meetings is to be as determined by the ethics committee.

6 Quorum

- (1) The quorum for a meeting of the ethics committee is one representative from each member category, subject to any additional requirements determined by the ethics committee under clause 5 of this Schedule.
- (2) In this clause, *member category* means a category of member referred to in Clause 2.2.2 of the Australian Code.

7 Presiding member

The Chairperson (or, in the absence of the Chairperson, another member of the ethics committee elected as chairperson for the meeting by the members of the ethics committee present) is to preside at a meeting of the ethics committee.

8 Decision making

A decision made in accordance with Clause 2.2.22 of the Australian Code at which a quorum is present is the decision of the ethics committee.

9 Minutes and other records

- (1) The ethics committee must cause full and accurate minutes to be kept of the proceedings of each meeting of the ethics committee.
- (2) The ethics committee must also record in its minutes the reasons for any decision it makes concerning a research proposal.
- (3) The ethics committee must keep each of its minutes and other records for a minimum of 7 years after the minute or record is made.

10 Periodic reports

An ethics committee must give a written report of its work and activities to the person or body by which it was appointed at such intervals (not exceeding 12 months) as the person or body may direct.

Animal Research Regulation 2005

Schedule 2 Constitution and procedure of ethics committees

11 Authentication of documents

Any document requiring authentication by the ethics committee is sufficiently authenticated if it is signed by the Chairperson or by any member of the ethics committee who is authorised by the Chairperson in that behalf.

12 First meeting of the ethics committee

The person or body that appoints the members of an ethics committee may call the first meeting of the ethics committee in such manner as the person or body thinks fit.

Animal Research Regulation 2005

Animals exempted from licensing requirements for supply

Schedule 3

Schedule 3 **Animals exempted from licensing requirements for supply**

(Clause 25)

1 **Definitions**

In this Schedule:

authorised researcher means the holder of an animal research authority.

relevant ethics committee means:

- (a) in relation to an animal research authority that was issued by the Director-General—the ethics committee that supervises the animal research carried out by the authorised researcher, or
- (b) in relation to an animal research authority that was issued by an accredited research establishment—the ethics committee of the establishment.

2 **Unowned animals**

Unowned animals are exempt animals for the purposes of any procedure, test, experiment, inquiry, investigation or study to be carried out by an authorised researcher if the relevant ethics committee is satisfied that:

- (a) the procedure, test, experiment, inquiry, investigation or study:
 - (i) is innocuous and non-invasive, and
 - (ii) will not have foreseeable lasting adverse consequences to the animal, and
- (b) appropriate arrangements exist for long-term welfare of the animal after the procedure, test, experiment, inquiry, investigation or study has been completed.

3 **Privately-owned animals**

Privately-owned animals are exempt animals for the purposes of any procedure, test, experiment, inquiry, investigation or study to be carried out by an authorised researcher if the relevant ethics committee is satisfied that:

- (a) the procedure, test, experiment, inquiry, investigation or study:
 - (i) is innocuous and non-invasive, and
 - (ii) will not have foreseeable lasting adverse consequences to the animal, and

Animal Research Regulation 2005

Schedule 3 Animals exempted from licensing requirements for supply

-
- (b) the animal will remain under the effective control of its owner while the procedure, test, experiment, inquiry, investigation or study is being carried out.

4 Animals supplied by Commonwealth or interstate organisations

Animals of any kind that have been obtained from a Commonwealth or interstate organisation are exempt animals for the purposes of any procedure, test, experiment, inquiry, investigation or study to be carried out by an authorised researcher if the organisation is approved by the Panel in connection with the supply of animals of that kind.

5 Bred for the purpose animals

- (1) Animals that have been bred by an authorised researcher are exempt animals for the purposes of any procedure, test, experiment, inquiry, investigation or study to be carried out by an authorised researcher so long as:
- (a) the use of the animals for those purposes is approved by the relevant ethics committee, and
 - (b) the animals are kept in a manner approved by the committee, and
 - (c) the ethics committee is satisfied that:
 - (i) the researcher intends to breed a strain or type of animal that is not otherwise available for a specific research project, and
 - (ii) if any of the animals are supplied direct to another authorised researcher—no person (including the authorised researcher who bred the animals) is to receive a financial benefit.
- (2) Animals that have been bred within an accredited research establishment or by an independent researcher (as defined in section 25C (5) of the Act) are exempt animals for the purposes of any procedure, test, experiment, inquiry, investigation or study to be carried out by an authorised researcher so long as:
- (a) the use of the animals for that purpose is approved by the relevant ethics committee, and
 - (b) the animals are kept in a manner approved by the committee, and
 - (c) the committee is satisfied that the animals are being supplied for use in the establishment only, or by the researcher only, as the case may be, and the breeding and management of the animals is part of a protocol approved by the committee.

Animal Research Regulation 2005

Animals exempted from licensing requirements for supply

Schedule 3

6 Deer

Commercially farmed deer are exempt animals for the purposes of any procedure, test, experiment, inquiry, investigation or study to be carried out by an authorised researcher.

7 Fish

Commercially hatched fish are exempt animals for the purposes of any procedure, test, experiment, inquiry, investigation or study to be carried out by an authorised researcher.

8 Animals in schools

All animals used in schools are exempt animals for the purposes of any procedure, test, experiment, inquiry, investigation or study of a kind described as Category 1, 2 or 3 in the document entitled *Animals in Schools: Animal Welfare Guidelines for Teachers* published by the New South Wales Department of Education and Training.

9 Animals with certain medical or genetic conditions

- (1) An animal is an exempt animal for the purposes of any procedure, test, experiment, inquiry, investigation or study to be carried out by an authorised researcher so long as:
 - (a) the animal has a medical or genetic condition for which it has not specifically been bred, and
 - (b) the animal has been released by its owner for use in a procedure, test, experiment, inquiry, investigation or study related to its condition that has been approved by the relevant ethics committee by means of a declaration in a form approved by the Director-General, and
 - (c) the relevant ethics committee is satisfied that the animal would be detrimentally affected by spending a period of time in a supply unit.
- (2) In this clause:

supply unit means premises used by a licensed animal supplier for the receipt, holding and despatch of animals for use in animal research.

Animal Research Regulation 2005

Schedule 4 Forms

Schedule 4 Forms**Form 1 Certificate of identification**

(Clause 26)

(Animal Research Act 1985)

I CERTIFY THAT [*Name*] whose signature and photograph appear below, is an inspector under the *Animal Research Act 1985*.

[*photograph*]

[*Signature*]Director-General of the Department of
Primary Industries[*Signature*]

Signature of Inspector



New South Wales

Annual Holidays Regulation 2005

under the

Annual Holidays Act 1944

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Annual Holidays Act 1944*.

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

Explanatory note

The object of this Regulation is to remake, without substantial change, the *Annual Holidays Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The *Annual Holidays Act 1944* provides that bonuses paid to workers are to form part of the ordinary pay of a worker for the purposes of payment for annual leave. Section 2 (6) of that Act provides that bonuses received by a worker are not to be taken into account if the ordinary annual pay of the worker (excluding bonuses) exceeds the amount prescribed by the regulations. This Regulation prescribes the annual amount as \$144,000 (the *Annual Holidays Regulation 2000* prescribed the amount as \$120,000).

This Regulation 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.

This Regulation is made under the *Annual Holidays Act 1944* including sections 2 (6) and 15 (the general regulation-making power).

Clause 1 Annual Holidays Regulation 2005

Annual Holidays Regulation 2005

under the

Annual Holidays Act 1944

1 Name of Regulation

This Regulation is the *Annual Holidays Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Annual Holidays Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Annual Holidays Act 1944*.

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

4 Calculation of ordinary pay for payment of leave: bonuses

For the purposes of section 2 (6) of the Act, the prescribed annual amount of a worker's ordinary pay is \$144,000.

Note. The *Annual Holidays Act 1944* provides that bonuses paid to workers are to form part of the ordinary pay of a worker for the purposes of payment for annual leave. Section 2 (6) of that Act provides that bonuses received by a worker are not to be taken into account if the ordinary annual pay of the worker (excluding bonuses) exceeds the amount prescribed by the regulations. This clause prescribes that amount.

5 Saving

The *Annual Holidays Regulation 2000*, as in force immediately before its repeal, continues to have effect in respect of any entitlement to annual leave that arose before the repeal of the regulation.



New South Wales

Apprenticeship and Traineeship Regulation 2005

under the

Apprenticeship and Traineeship Act 2001

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Apprenticeship and Traineeship Act 2001*.

CARMEL TEBBUTT, M.L.C.,
Minister for Education and Training

Explanatory note

The object of this Regulation is to remake, with only minor changes in substance, the *Apprenticeship and Traineeship Regulation 2000*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the making of applications to establish apprenticeships and traineeships,
- (b) the payment of the expenses of witnesses who are required to attend or give evidence at hearings of the Vocational Training Tribunal,
- (c) procedures relating to appeals under the *Apprenticeship and Traineeship Act 2001 (the Act)*,
- (d) the form for an industry training officer's certificate of identification,
- (e) the matters for which fees are payable under the Act, the amounts of those fees and the circumstances in which those fees may be waived or remitted,
- (f) the keeping of progress cards for apprentices,
- (g) the nomination of persons for appointment to the Vocational Training Tribunal and the Vocational Training Appeal Panel,
- (h) formal matters and matters of a savings nature.

This Regulation (clause 8 excepted) 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.

Apprenticeship and Traineeship Regulation 2005

Explanatory note

This Regulation is made under the *Apprenticeship and Traineeship Act 2001*, including section 81 (the general regulation-making power) and the sections referred to in the Regulation.

Apprenticeship and Traineeship Regulation 2005

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Clause 1 Apprenticeship and Traineeship Regulation 2005

Apprenticeship and Traineeship Regulation 2005

under the

Apprenticeship and Traineeship Act 2001

1 Name of Regulation

This Regulation is the *Apprenticeship and Traineeship Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Apprenticeship and Traineeship Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
the Act means the *Apprenticeship and Traineeship Act 2001*.
- (2) Notes included in this Regulation do not form part of this Regulation.

4 Applications to establish apprenticeships and traineeships

- (1) An application under section 7 of the Act that complies with that section may be lodged by an agent on behalf of an employer by electronic means approved by the Commissioner if the agent certifies that the relevant training contract and any associated documentation (such as a training plan) has been duly executed by the parties to the contract.
- (2) An application may be varied or withdrawn by the same method by which it was made.
- (3) If an application complying with section 7 of the Act is made electronically, a hard copy of the relevant training contract and associated documentation:
 - (a) must be kept by the relevant agent, in a manner approved by the Commissioner, for the period specified by the Commissioner, and

-
- (b) must be made available for inspection by the Commissioner at the Commissioner's request if reasonable notice of the request is given.

Maximum penalty: 5 penalty units.

- (4) The Commissioner may refuse to accept applications lodged by a particular agent (and notify the relevant applicants accordingly) if the agent fails to comply with subclause (3) in respect of any application lodged by the agent.

5 Witnesses' expenses

For the purposes of section 46 (3) of the Act, the allowances and expenses payable to a person who is required to attend or to give evidence at a hearing under Part 4 of the Act are the same as the allowances and expenses payable to a witness in proceedings under the *Local Courts (Civil Claims) Act 1970*.

6 Appeals

- (1) For the purposes of section 54 (1) of the Act, an appeal is to be made by way of a written notice of appeal lodged at, or sent by post to, any of the offices of the Department within 30 days after the appellant is notified of the relevant decision, vocational training direction, refusal or determination.
- (2) In the case of an appeal referred to in section 54 (1) (c) of the Act, a copy of the notice of appeal must be given to the apprentice or trainee, and to the current employer of the apprentice or trainee, within 7 days after the appeal is made.
- (3) In the case of an appeal referred to in section 54 (1) (d) or (e) of the Act, a copy of the notice of appeal must be given to the other party to the apprenticeship or traineeship within 7 days after the appeal is made.
- (4) In the case of an appeal referred to in section 54 (1) (j) or (k) of the Act, a copy of the notice of appeal must be given to the other party or parties to the hearing of the complaint within 7 days after the appeal is made.

7 Certificates of identification

The prescribed form for an industry training officer's certificate of identification referred to in section 67 (6) of the Act is Form 1 in Schedule 1.

Clause 8 Apprenticeship and Traineeship Regulation 2005

8 Fees

- (1) The matters for which fees are payable as referred to in section 75 of the Act, and the amounts of those fees, are as follows:
 - (a) for dealing with any application lodged under section 36 or 37 of the Act for recognition of a person's qualifications or experience in a particular recognised trade vocation, \$150,
 - (b) for conducting any examination, test or work-based assessment for the purposes of section 35, 36 or 37 of the Act to ascertain if a person has acquired the competencies of a particular recognised trade vocation, \$275,
 - (c) for issuing any replacement craft certificate, certificate of completion or certificate of proficiency, \$30.
- (2) The fee paid for the conduct of an examination, test or work-based assessment, pursuant to an appeal under section 54 of the Act, to ascertain if a person has acquired the competencies of a particular recognised trade vocation, is to be remitted if the results of the examination, test or assessment indicate that the person has acquired those competencies.
- (3) A fee referred to in subclause (1) may be waived or refunded in any circumstances in which the Commissioner is satisfied that it would be harsh or unconscionable, or otherwise inappropriate, to charge the fee.

9 Progress cards

- (1) An employer:
 - (a) must complete a progress card for each trainee apprentice employed by the employer, and
 - (b) must retain each such card at the place where the trainee apprentice is employed, and
 - (c) must produce any such card for inspection on demand made by an industry training officer, and
 - (d) must return each such card to the Commissioner:
 - (i) if the apprenticeship concerned is cancelled, suspended or completed, or
 - (ii) if the Commissioner so requests by notice in writing given to the employer.
- (2) A progress card is to be in the form approved for the time being by the Commissioner and must be completed in accordance with any directions shown on the card.

Maximum penalty: 5 penalty units.

10 Nomination of appointed members of Tribunal

- (1) For the purposes of clause 2 (a) of Schedule 1 to the Act:
 - (a) the prescribed registered training organisations to nominate candidates for appointment as members of the Tribunal to represent those organisations are all the registered training organisations that provide training in respect of a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Tribunal to represent registered training organisations is for each prescribed registered training organisation to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).
- (2) For the purposes of clause 2 (b) of Schedule 1 to the Act:
 - (a) the prescribed industrial organisations of employers to nominate candidates for appointment as members of the Tribunal to represent employers are all the industrial organisations of employers that are parties to an industrial award or agreement relating to the employment of apprentices or trainees in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Tribunal to represent employers is for each prescribed industrial organisation of employers to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).
- (3) For the purposes of clause 2 (c) of Schedule 1 to the Act:
 - (a) the prescribed industrial organisations of employees to nominate candidates for appointment as members of the Tribunal to represent employees are all the industrial organisations of employees that are parties to an industrial award or agreement relating to the employment of apprentices or trainees in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Tribunal to represent employees is for each prescribed industrial organisation of employees to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).

Clause 11 Apprenticeship and Traineeship Regulation 2005

- (4) For the purposes of clause 5 (2) of Schedule 1 to the Act, the prescribed manner of withdrawing the nomination of a member of the Tribunal is for the organisation by which the nomination was made to give notice in writing to the Director-General that the nomination is withdrawn.

11 Nomination of appointed members of Appeal Panel

- (1) For the purposes of clause 2 (a) of Schedule 2 to the Act:
- (a) the prescribed registered training organisations to nominate candidates for appointment as members of the Appeal Panel to represent those organisations are all the registered training organisations that provide training in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Appeal Panel to represent registered training organisations is for each prescribed registered training organisation to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).
- (2) For the purposes of clause 2 (b) of Schedule 2 to the Act:
- (a) the prescribed industrial organisations of employers to nominate candidates for appointment as members of the Appeal Panel to represent employers are all the industrial organisations of employers that are parties to an industrial award or agreement relating to the employment of apprentices or trainees in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Appeal Panel to represent employers is for each prescribed industrial organisation of employers to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).
- (3) For the purposes of clause 2 (c) of Schedule 2 to the Act:
- (a) the prescribed industrial organisations of employees to nominate candidates for appointment as members of the Appeal Panel to represent employees are all the industrial organisations of employees that are parties to an industrial award or agreement relating to the employment of apprentices or trainees in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Appeal Panel to represent employees is for each prescribed industrial organisation of employees to nominate

Apprenticeship and Traineeship Regulation 2005

Clause 12

in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).

- (4) For the purposes of clause 5 (2) of Schedule 2 to the Act, the prescribed manner of withdrawing the nomination of a member of the Appeal Panel is for the organisation by which the nomination was made to give notice in writing to the Director-General that the nomination is withdrawn.

12 Savings

Any act, matter or thing that, immediately before the repeal of the *Apprenticeship and Traineeship Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Apprenticeship and Traineeship Regulation 2005

Schedule 1 Forms

Schedule 1 Forms

Form 1 Certificate of identification

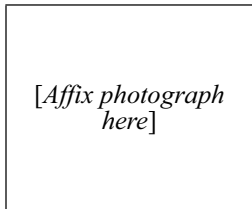
(Clause 7)

(Apprenticeship and Traineeship Act 2001)

I, the Commissioner for Vocational Training, certify that the holder of this certificate:

[Insert name of holder]

whose photograph and signature appear below, is an industry training officer for the purposes of the *Apprenticeship and Traineeship Act 2001*.



.....
Signature of industry training officer

.....
Signature of Commissioner



New South Wales

Apiaries Regulation 2005

under the

Apiaries Act 1985

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Apiaries Act 1985*.

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

Explanatory note

The object of this Regulation is to remake, with certain omissions and additions and minor changes in substance, the *Apiaries Regulation 1995*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

Both the omitted matter and the additional matter is consequential on the amendments made to the *Apiaries Act 1985* (**the Act**) by the *Statute Law (Miscellaneous Provisions) Act 2005*.

The amendments did away with the necessity for certain matters under the Act (such as certain forms) to be prescribed by the regulations. (The forms are, instead, to be approved by the Director-General of the Department of Primary Industries.)

The amendments also permit the regulations to prescribe certain offences under the Act or the regulations as offences in respect of which penalty notices may be issued, and to prescribe the amounts of the fines payable under such penalty notices.

This Regulation is made under the *Apiaries Act 1985*, including section 50 (the general regulation-making power) and the sections specifically referred to in the Regulation.

Apiaries Regulation 2005

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Apiaries Regulation 2005

Clause 1

Apiaries Regulation 2005

under the

Apiaries Act 1985

1 Name of Regulation

This Regulation is the *Apiaries Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Apiaries Regulation 1995* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

nucleus hive means a colony of bees consisting of not more than 6 standard full depth Langstroth frames.

queen candy means the substance made by kneading powdered sugar into honey (or into an invert sugar syrup) until a stiff dough is formed.

the Act means the *Apiaries Act 1985*.

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

4 Queen candy

Queen candy is declared under the definition of **apiary product** in section 3 (1) of the Act to be an apiary product for the purposes of the Act.

5 Application for registration, or renewal of registration, as beekeeper

(1) The prescribed registration fee to accompany an application under section 7 of the Act for registration as a beekeeper, or an application under section 11 for the renewal of such a registration, is the sum of the following components:

- (a) a base registration fee of \$40.00, and
- (b) a bee compensation levy calculated at the rate of \$3.00 for every 10 (or part of 10) hives to which the application relates.

Clause 6 Apiaries Regulation 2005

- (2) For the purpose of subclause (1) (b), 4 nucleus hives are taken to be 1 hive.

6 Prescribed laws

- (1) For the purposes of section 8 (2) (a) (i) of the Act, each of the following laws is a prescribed law of another State:
- (a) the *Apiaries Act 1982* of Queensland,
 - (b) the *Livestock Act 1997* of South Australia,
 - (c) the *Animal Health Act 1995* of Tasmania,
 - (d) the *Livestock Disease Control Act 1994* of Victoria,
 - (e) the *Beekeepers Act 1963* of Western Australia.
- (2) For the purposes of section 8 (2) (a) (i) of the Act, each of the following laws is a prescribed law of a Territory:
- (a) the *Animal Diseases Act 1993* and the *Animal Diseases Act 2005* of the Australian Capital Territory,
 - (b) the *Stock Diseases Act* of the Northern Territory.

7 Register of beekeepers

- (1) For the purposes of section 8 (3) (a) of the Act, the prescribed particulars of an applicant to be entered in the register of beekeepers are the particulars required by section 13 (3) of the Act.
- (2) For the purposes of section 13 (3) (f) of the Act, the prescribed other particulars to be entered in the register in relation to a beekeeper's registration are the following:
- (a) the postal address and business telephone number of the beekeeper (as well as the home telephone number of a beekeeper that is a natural person),
 - (b) the number of hives to which the registration relates,
 - (c) the number of nucleus hives to which the registration relates.

8 Record of hives moved, lost or stolen

- (1) For the purposes of section 10 (1) (a) of the Act, the prescribed record is one that is written (whether by hand or by machine) or electronically recorded in a form that may readily be converted into writing and contains the particulars required by this clause.
- (2) The particulars required in relation to the movement of beehives are the following:
- (a) the date when the hives were moved,
 - (b) the number of hives moved,

-
- (c) the site from which the hives were moved,
 - (d) the site to which the hives were moved,
 - (e) the name of the person who moved the hives,
 - (f) if any beehives have been lost or stolen—the date of the loss or theft and the number of hives lost or stolen (to the extent that this information is known to the beekeeper).

9 Print-outs from register

For the purposes of section 13 (6) of the Act, the prescribed fees for a computer print-out from the register are as follows:

- (a) for a print-out of a single entry—\$20.00,
- (b) for a print-out of a group of entries not constituting the entire register (for example, entries by reference to a postcode, surname, or the like)—\$50.00,
- (c) for a print-out of the entire register—\$150.00.

10 Identification of hives

- (1) For the purposes of section 15 (1) of the Act, the prescribed period is 60 days after the allocation of the registration number.
- (2) For the purposes of section 15 (2) of the Act, it is a prescribed requirement that every letter and number of a registration number be branded on the outside wall of the broodbox in such a manner as to be incapable of being obliterated by painting.

11 Disposal of bees or other things by an inspector

- (1) For the purposes of section 17 (1) (a) of the Act, the prescribed time is the period of 20 days commencing when an inspector first examines the apiary for the purpose of ascertaining by whom the apiary is kept.
- (2) For the purposes of section 17 (1) (a) (ii) and (b) of the Act, the prescribed manner of disposal is by sale at the best offer made to the inspector after the intended sale has been advertised in a newspaper circulating generally within the district where the bees, hives, products or appliances were located when seized.
- (3) The proceeds of the sale must be paid into the Consolidated Fund.

12 Prescribed officers

For the purposes of section 25 (1) of the Act, a prescribed officer of a State or Territory is an officer who exercises the functions of an inspector of apiaries under a law of that State or Territory (being a law that is prescribed by clause 6 for the purposes of section 8 (2) (a) (i) of the Act).

Clause 13 Apiaries Regulation 2005

13 Proportions relating to compensation claims

For the purposes of section 31 (1) of the Act, the prescribed proportions are as follows:

- (a) in the case of queen bees that have been destroyed—100 per cent,
- (b) in the case of beehives or appliances that have been destroyed—50 per cent,
- (c) in the case of beehives or appliances that have been irradiated—100 per cent.

14 Use of infected queen candy

A person must not use queen candy for the purpose of providing food for bees in transit if the queen candy is infected with any notifiable disease.

Maximum penalty: 5 penalty units.

15 Night parking of vehicle containing bees

When a vehicle contains a beehive with an open entrance, a person must not park the vehicle between the hours of sunset and sunrise:

- (a) within 200 metres of a street light, or
- (b) within a residential area.

Maximum penalty: 5 penalty units.

16 Penalty notices

For the purposes of section 42A 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.

17 Saving

Any act, matter or thing that immediately before the repeal of the *Apiaries Regulation 1995* had effect under that Regulation is taken to have effect under this Regulation.

Apiaries Regulation 2005

Penalty notice offences

Schedule 1

Schedule 1 Penalty notice offences

(Clause 16)

| Column 1 | Column 2 |
|--------------------------|--|
| Offence | Penalty (\$) |
| Apiaries Act 1985 | |
| Section 6 (1) | If the number of beehives kept is 50 or smaller—\$150 |
| | If the number of beehives kept is greater than 50 but smaller than 401—\$275 |
| | If the number of beehives kept is greater than 400—\$550 |
| Section 6 (2) | If the number of beehives kept is 50 or smaller—\$150 |
| | If the number of beehives kept is greater than 50 but smaller than 401—\$275 |
| | If the number of beehives kept is greater than 400—\$550 |
| Section 10 (4) | \$275 |
| Section 14 (1) | \$275 |
| Section 14 (5) | \$150 |
| Section 15 (3) | \$275 |
| Section 16 (4) | \$150 |
| Section 17 (2) | \$275 |
| Section 18 (6) | \$550 |
| Section 19 (4) | \$275 |
| Section 20 (2) | \$275 |
| Section 21 (a) | \$550 |
| Section 21 (b) | \$550 |
| Section 22 (3) | \$550 |
| Section 23 (10) | \$550 |
| Section 24 (7) | \$550 |

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Apiaries Regulation 2005

Schedule 1 Penalty notice offences

| Column 1 | Column 2 |
|---------------------------------|---------------------|
| Offence | Penalty (\$) |
| Section 24A (3) | \$550 |
| Section 26 (5) | \$550 |
| Section 26 (6) | \$275 |
| Section 27 (4) | \$275 |
| Section 27 (5) | \$275 |
| Section 38 (5) | \$275 |
| Apiaries Regulation 2005 | |
| Clause 14 | \$150 |
| Clause 15 | \$150 |



New South Wales

Associations Incorporation Amendment (Fees) Regulation 2005

under the

Associations Incorporation Act 1984

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Associations Incorporation Act 1984*.

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to increase certain fees payable in connection with the administration of the *Associations Incorporation Act 1984* (*the Act*). The fee increases are in line with movements in the Consumer Price Index.

This Regulation also introduces the following new fees:

- (a) \$31 for the issue of a replacement certificate of incorporation where the Director-General of the Department of Commerce (*the Director-General*) is satisfied that the original was lost or destroyed,
- (b) \$47 for a request for the Minister's approval for an incorporated association to become registered as a company or co-operative,
- (c) \$31 for the issue of a certificate by the Director-General stating the current status of an association,
- (d) \$61 for the issue of a certificate by the Director-General stating compliance with certain provisions of the Act.

This Regulation also provides that the Director-General:

- (a) may refund the whole or any part of a fee paid to the Director-General in respect of an application which is withdrawn or refused by the Director-General, and
 - (b) may waive fees in whole or in part,
- if, in the opinion of the Director-General, there are special circumstances that justify payment being refunded or waived.

This Regulation is made under the Act, including section 73 (the general regulation-making power).

Clause 1 Associations Incorporation Amendment (Fees) Regulation 2005

Associations Incorporation Amendment (Fees) Regulation 2005

under the

Associations Incorporation Act 1984

1 Name of Regulation

This Regulation is the *Associations Incorporation Amendment (Fees) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

3 Amendment of Associations Incorporation Regulation 1999

The *Associations Incorporation Regulation 1999* is amended as set out in Schedule 1.

Associations Incorporation Amendment (Fees) Regulation 2005

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 5

Omit the clause. Insert instead:

5 Fees

For each matter specified in Column 1 of Schedule 2 a fee is payable as specified in Column 2 of that Schedule.

[2] Clause 5A

Insert after clause 5:

5A Refund or waiver of fees

For the purposes of section 73 (1) (b) and (b2) of the Act, the Director-General:

- (a) may refund the whole or any part of a fee paid to the Director-General in respect of an application which is withdrawn or refused by the Director-General, and
- (b) may waive fees in whole or in part, if, in the opinion of the Director-General, there are special circumstances that justify payment being refunded or waived.

[3] Schedule 2

Insert after Schedule 1:

Schedule 2 Fees

(Clause 5)

| Column 1 | | Column 2 |
|----------|---|----------|
| Item | Matter for which fee payable | Fee |
| 1 | Application for incorporation (section 9 (g) of the Act) | \$98 |
| 2 | Issue of replacement certificate of incorporation where the Director-General is satisfied that the original was lost or destroyed | \$31 |
| 3 | Application for reservation of name (section 13 (2) of the Act) | \$37 |
| 4 | Application for approval of change of name (section 14 (3) (c) of the Act) | \$47 |

Page 3

Associations Incorporation Amendment (Fees) Regulation 2005

Schedule 1 Amendments

| Column 1 | | Column 2 |
|----------|---|----------|
| Item | Matter for which fee payable | Fee |
| 5 | Notice of alteration of objects or rules of incorporated association (section 20 (2) of the Act) | \$36 |
| 6 | Application for extension of period within which annual general meeting to be held or permission that annual general meeting be held in another calendar year (section 26 (3) of the Act) | \$21 |
| 7 | Lodgment of annual statement (section 27 (1) (d) of the Act): | |
| | (a) if the statement is lodged one month after the date of the annual general meeting of the association or sooner | \$42 |
| | (b) if the statement is lodged more than one month after the date of the annual general meeting, but less than two months after that date | \$61 |
| | (c) if the statement is lodged two or more months after the date of the annual general meeting | \$66 |
| 8 | Application for extension or further extension of period within which an annual statement must be lodged (section 27 (2) of the Act) | \$21 |
| 9 | Application for amalgamation of incorporated associations (section 46 (3) (e) of the Act) | \$98 |
| 10 | Application for incorporation by company limited by guarantee or registered co-operative (section 48 (3) (d) of the Act) | \$98 |
| 11 | Request for Minister's approval for incorporated association to become registered as company or co-operative (section 56 (1) of the Act) | \$47 |
| 12 | Request for inspection of document lodged with the Director-General (section 59 (3) (a) of the Act) | \$15 |
| 13 | Issue of uncertified copy of, or extract from, document lodged with the Director-General (section 59 (3) (b) of the Act): | |
| | (a) if a fee has been paid for inspection of the document: | |
| | (i) for the first page | Nil |
| | (ii) for each additional page | \$1 |
| | (b) if a fee has not been paid for inspection of the document: | |
| | (i) for the first page | \$15 |
| | (ii) for each additional page | \$1 |

Associations Incorporation Amendment (Fees) Regulation 2005

Amendments

Schedule 1

| Column 1 | | Column 2 |
|-----------------|---|-----------------|
| Item | Matter for which fee payable | Fee |
| 14 | Issue of certified copy of, or extract from, document lodged with the Director-General (section 59 (3) (b) of the Act): | |
| | (a) for the first page | \$16 |
| | (b) for each additional page | \$2 |
| 15 | Issue of extract from computerised record forming part of the register (referred to in section 59 (1) of the Act) that the Director-General keeps for the purposes of the Act | \$15 |
| 16 | Issue of certificate by Director-General stating current status of association (section 62 (1) (a) and (b) of the Act) | \$31 |
| 17 | Issue of certificate by Director-General stating compliance with certain provisions of the Act (section 62 (1) (c)–(f) of the Act) | \$61 |



New South Wales

Boxing and Wrestling Control Regulation 2005

under the

Boxing and Wrestling Control Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Boxing and Wrestling Control Act 1986*.

SANDRA NORI, M.P.,
Minister for Tourism

Explanatory note

This Regulation replaces the *Boxing and Wrestling Control Regulation 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) matters relating to the registration of boxers, including classes of boxers that may be registered, particulars to be noted in the register, forms for registration and registration fees,
- (b) matters relating to the registration of industry participants, including classes of industry participants that may be registered, particulars to be noted in the register, forms for registration, registration fees, conditions of registration and penalties for acting as an industry participant while unregistered,
- (c) matters relating to boxing contests, including the form of application to promote or arrange a boxing contest, application fees and requirements to be observed in the conduct of boxing contests,
- (d) miscellaneous matters, including classes of places at which boxing contests may not be held, the form of medical record cards issued to boxers under the *Boxing and Wrestling Control Act 1986* and the replacement of medical record books and cards required to be kept by boxers.

This Regulation is made under the *Boxing and Wrestling Control Act 1986*, including section 72 (the general regulation-making power) and various other sections referred to in the Regulation.

Boxing and Wrestling Control Regulation 2005

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Boxing and Wrestling Control Regulation 2005

under the

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Boxing and Wrestling Control Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Boxing and Wrestling Control Regulation 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

attending member, in relation to a boxing contest or weigh-in for a boxing contest, means the member of the Authority present at the contest or weigh-in in accordance with section 46 (c) of the Act.

boxing inspector, in relation to a boxing contest or weigh-in for a boxing contest, means the boxing inspector present at the contest or weigh-in in accordance with section 46 (c) of the Act.

the Act means the *Boxing and Wrestling Control Act 1986*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.

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

Boxing and Wrestling Control Regulation 2005

Clause 4

Registration of boxers and industry participants

Part 2

Part 2 Registration of boxers and industry participants

Division 1 Boxers

4 Classes of boxers

For the purposes of section 6 of the Act, the following classes of boxers are prescribed:

- (a) boxers (fist fighting),
- (b) boxers (kick boxing).

5 Register

For the purposes of section 7 (1) (b) of the Act, the following particulars are prescribed in relation to each person registered as a boxer:

- (a) the name of the person and the name the person uses for boxing purposes,
- (b) the person's date of birth,
- (c) 2 passport-size photographs of the person,
- (d) the person's registration number as a boxer,
- (e) the date of expiry of the person's registration as a boxer,
- (f) particulars of any cancellation or suspension of the person's registration as a boxer in New South Wales or elsewhere,
- (g) the results of a serology test for HIV, Hepatitis B and Hepatitis C.

6 Registration of boxers

- (1) For the purposes of sections 8 (2) (a) and 12 (2) (a) of the Act, the prescribed form for an application for registration or renewal of registration as a boxer is Form 1.
- (2) For the purposes of section 8 (2) (b) (i) of the Act, the prescribed form for a certificate of fitness for boxing given by a medical practitioner is Form 2.
- (3) For the purposes of section 8 (2) (b) (ii) of the Act, the prescribed fee to accompany an application for registration as a boxer is \$40.

Division 2 Industry participants

7 Classes of industry participants

For the purposes of section 17 of the Act, the following classes of persons are prescribed as industry participants:

| | |
|----------|--|
| Clause 8 | Boxing and Wrestling Control Regulation 2005 |
| Part 2 | Registration of boxers and industry participants |

- (a) promoters (fist fighting)—persons who promote fist fighting contests,
- (b) promoters (kick boxing)—persons who promote kick boxing contests,
- (c) matchmakers (fist fighting)—persons who are responsible for the matching of fist fighters in any proposed fist fighting contests,
- (d) matchmakers (kick boxing)—persons who are responsible for the matching of kick boxers in any proposed kick boxing contests,
- (e) referees (fist fighting)—persons who referee fist fighting contests,
- (f) referees (kick boxing)—persons who referee kick boxing contests,
- (g) managers (fist fighting)—persons who manage fist fighters,
- (h) managers (kick boxing)—persons who manage kick boxers,
- (i) trainers (fist fighting)—persons who train fist fighters,
- (j) trainers (kick boxing)—persons who train kick boxers,
- (k) seconds (fist fighters)—persons who act as seconds to fist fighters in fist fighting contests,
- (l) seconds (kick boxing)—persons who act as seconds to kick boxers in kick boxing contests,
- (m) judges (fist fighting)—persons who judge fist fighting contests,
- (n) judges (kick boxing)—persons who judge kick boxing contests,
- (o) timekeepers (fist fighting)—persons who time the rounds of a fist fighting contest,
- (p) timekeepers (kick boxing)—persons who time the rounds of a kick boxing contest.

8 Register

For the purposes of section 18 (1) (b) of the Act, the following particulars are prescribed in relation to each person registered as an industry participant:

- (a) the person's date of birth,
- (b) the person's registration number as an industry participant,
- (c) the date of expiry of the person's registration as an industry participant,
- (d) particulars of any cancellation or suspension of the person's registration as an industry participant in New South Wales or elsewhere.

Boxing and Wrestling Control Regulation 2005

Clause 9

Registration of boxers and industry participants

Part 2

9 Registration of industry participants

- (1) For the purposes of sections 19 (2) (a) and 24 (2) (a) of the Act, the prescribed form for an application for registration or renewal of registration as an industry participant is Form 3.
- (2) For the purposes of section 19 (2) (b) of the Act, the prescribed fee for an application for registration as an industry participant (irrespective of the number of classes of which a person is applying to be registered as a participant) is:
 - (a) \$60—if any class the subject of the application is the class of promoter, matchmaker, referee, judge or timekeeper, or
 - (b) \$40—in any other case.

10 Conditions of registration

For the purposes of section 21 of the Act, the following conditions are prescribed:

- (a) a person seeking first registration as a promoter must have passed the appropriate examination conducted by or on behalf of the Authority,
- (b) a person seeking first registration in any class of industry participants other than a promoter must have completed a boxing medical accreditation course conducted by or on behalf of the Authority,
- (c) a person seeking registration or renewal of registration in any class of industry participants listed in Column 1 of Schedule 2 must not be registered in any class of industry participants listed in Column 2 of Schedule 2,
- (d) a person seeking registration or renewal of registration in any class of industry participants listed in Column 2 of Schedule 2 must not be registered in any class of industry participants listed in Column 1 of Schedule 2.

11 Penalty

- (1) For the purposes of section 27 (2) of the Act, the prescribed penalty for all classes of industry participants is 20 penalty units.
- (2) In this clause, *industry participant* means an industry participant prescribed by clause 7.

Clause 12 Boxing and Wrestling Control Regulation 2005

Part 3 Boxing contests

Part 3 Boxing contests

Division 1 Promoters and weigh-ins

12 Application for permission to promote or arrange boxing contest

For the purposes of section 42 (2) (a) of the Act, the prescribed form for an application for permission to promote or arrange a boxing contest is Form 4.

13 Promotion fee

For the purposes of section 42 (2) (b) of the Act, the prescribed fee to accompany an application for permission to promote or arrange a boxing contest is \$50.

14 Weigh-in time

For the purposes of sections 46 (a) and 47 of the Act, the prescribed period is:

- (a) the period of 24 hours before the scheduled start of the contest if the promoter of the contest has made a written application to the Authority for the period in this paragraph to apply and:
 - (i) the Authority considers that the contest is of international significance (that is, its outcome could affect a contestant's international ranking), or
 - (ii) the contest is for an Australian championship, or
 - (iii) the Authority is satisfied that the contest is an international contest being held under the auspices of an international body recognised by the Authority, and the international body requires the period in this paragraph to apply, or
- (b) the period from 8 hours to 30 minutes before the scheduled start of the contest, in any other case.

15 Particulars to be recorded by boxing inspector or member

For the purposes of section 48 (2) (b) of the Act, the following particulars are prescribed for completion by the boxing inspector or attending member:

- (a) the name and address of the boxer,
- (b) the type of contest,
- (c) the date of the contest,

Boxing and Wrestling Control Regulation 2005

Clause 16

Boxing contests

Part 3

-
- (d) the venue of the contest,
 - (e) the name of the opponent,
 - (f) the scheduled length of the contest.

16 Boxer to furnish information in certain cases

A boxer whose last contest took place outside New South Wales and who submits himself for examination by a medical practitioner in accordance with section 49 of the Act before engaging in a contest in New South Wales must:

- (a) inform the medical practitioner that his last contest took place outside New South Wales, and
- (b) fully and correctly supply any information relating to that contest that is requested by the medical practitioner.

Maximum penalty: 5 penalty units.

17 Pre-contest medical examination of boxer

- (1) For the purposes of section 51 (a) of the Act, the prescribed examination is a medical examination sufficient for the completion of Form 5.
- (2) For the purposes of section 51 (b) of the Act, the particulars included in Form 5 after its completion in relation to a boxer are prescribed as particulars to be recorded in the boxer's medical record book.

18 After-contest medical examination of boxer

- (1) For the purposes of section 58 (a) of the Act, the prescribed examination is a medical examination sufficient for the completion of Form 6.
- (2) For the purposes of section 58 (b) of the Act, the particulars included in Form 6 after its completion in relation to a boxer are prescribed as particulars to be recorded in the boxer's medical record book.

19 Clothing at weigh-in

A boxer's weight for the purposes of a boxing contest is taken to include the weight of boxer's boxing shorts but no other clothing.

20 Weigh-in scales

A person must not use scales for the purpose of weighing-in a boxer unless the scales are platform scales of a type approved by the National Standards Commission or a type approved by the boxing inspector or member present at the weigh-in.

Maximum penalty: 5 penalty units.

Clause 21 Boxing and Wrestling Control Regulation 2005

Part 3 Boxing contests

21 Boxer's announced weight

A person must not, before a boxing contest, announce or cause to be announced the weight of a contestant as being any weight other than that recorded in the boxer's medical record book at the weigh-in for the contest.

Maximum penalty: 5 penalty units.

Division 2 The contest

22 Contest specifications

- (1) A person must not promote a boxing contest unless the provisions of this clause are complied with.
Maximum penalty: 5 penalty units.
- (2) A boxing contest, not being a championship boxing contest, must comprise a number of rounds, not exceeding 10, each of a duration not exceeding:
 - (a) in the case of a fist fighting boxing contest—3 minutes, or
 - (b) in the case of a kick boxing contest—2 minutes.
- (3) A championship boxing contest must comprise a number of rounds, not exceeding 12, each of a duration not exceeding:
 - (a) in the case of a fist fighting boxing contest—3 minutes, or
 - (b) in the case of a kick boxing contest—2 minutes.
- (4) There must be a rest period of one minute's duration between each round of a boxing contest.
- (5) The number of rounds of a boxing contest, or the duration of rounds or rest periods during a boxing contest, may be varied from those prescribed by this clause, but only in accordance with the prior written consent of the Authority.

23 Stretcher

A person who promotes a boxing contest must ensure that a stretcher is kept at ringside during the contest.

Maximum penalty: 5 penalty units.

24 Medical practitioner may stop contest

- (1) The attending medical practitioner may direct the referee to stop the contest if, in the opinion of the medical practitioner, a contestant is exhausted or injured to such an extent as to be unable to defend himself or to continue the contest.

Boxing and Wrestling Control Regulation 2005

Clause 25

Boxing contests

Part 3

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- (2) The referee must comply with such an instruction immediately after the instruction is given.

Maximum penalty: 5 penalty units.

- (3) In this clause, *attending medical practitioner* means the medical practitioner who is present at the boxing contest in accordance with section 46 (c) of the Act.

25 Application of 8 second count

The referee of a boxing contest:

- (a) must apply a compulsory 8 second count if a boxer is knocked down during the contest, and
- (b) may apply a compulsory 8 second count if, in the opinion of the referee, the boxer is temporarily unable to defend himself or to continue the contest.

Maximum penalty: 5 penalty units.

26 Stopping contest

- (1) The referee must stop a boxing contest if:
- (a) in the referee's opinion, a contestant is exhausted or injured to such an extent as to be unable to defend himself or to continue the contest, or
 - (b) a contestant suffers 3 knock downs in any one round of the contest.
- (2) For the purposes of this clause, an 8 second count (as described in clause 25 (b)) is taken to be a knock down.

27 Boxing result sheet

For the purposes of section 60 (2) (a) of the Act, the prescribed form for a boxing result sheet is Form 7.

Division 3 The boxing ring

28 Ring specifications

A person must not promote a boxing contest on or in any structure other than a boxing ring that complies with the requirements of this Division.

Maximum penalty: 5 penalty units.

29 Area

A boxing ring must be a square having sides of not less than 4.9 metres and not more than 6.1 metres by measurements taken inside the line of the ropes.

Clause 30 Boxing and Wrestling Control Regulation 2005

Part 3 Boxing contests

30 Platform

The platform must:

- (a) be safely constructed, level and free from any obstructing projections, and
- (b) extend for at least 50 centimetres outside the line of the ropes, and
- (c) be fitted with 4 corner posts that are well padded or otherwise so constructed as to prevent injury to the contestants.

31 Platform mat

The entire platform must be covered with:

- (a) a layer of rubber, or other suitable material having the same quality of elasticity as rubber, that is:
 - (i) approved by the boxing inspector or attending member, and
 - (ii) of a thickness of not less than 1.5 centimetres, and
- (b) a layer of good quality felt placed over the layer referred to in paragraph (a), and
- (c) a clean sheet of stout canvas stretched tightly over the layer of felt and fixed to the outer edges of the platform.

32 Ropes

- (1) There must be 4 ropes of a thickness of not less than 3 centimetres and not more than 5 centimetres tightly drawn from the corner posts at heights of approximately 40 centimetres, 70 centimetres, 100 centimetres and 130 centimetres from the platform, respectively.
- (2) The ropes must be covered with a soft smooth material and must be joined:
 - (a) at each of 2 points on each side of the ring, being points equidistant from each other and from the corner posts on that side, and
 - (b) by a vertically hung piece of soft, smooth material:
 - (i) of a thickness of not less than 3 centimetres and not more than 4 centimetres, and
 - (ii) that must not slide along the rope.

33 Turnbuckle

Padding of a width of not less than 15 centimetres and a thickness of not less than 7.5 centimetres must cover each turnbuckle.

Boxing and Wrestling Control Regulation 2005

Clause 34

Boxing contests

Part 3

34 Steps

Properly constructed steps must be provided at diagonally opposite corners of the boxing ring for the use of contestants, seconds and officials.

35 Seats

Seats of a type that can be removed during the rounds of a contest must be provided for the use of contestants between rounds at the corners at which steps are provided.

Division 4 Protection of contestants

36 Gloves

- (1) A person must not promote a boxing contest unless the provisions of this clause with respect to contestants' gloves are complied with.
Maximum penalty: 5 penalty units.
- (2) Each glove must have a mass of not less than:
 - (a) 227 grams (8 ounces) in the case of a contestant from the middleweight division or a lower weight division, or
 - (b) 283 grams (10 ounces) in the case of a contestant from any other weight division,except if the Authority has, before the contest, otherwise approved in writing.
- (3) Each glove must contain padding, the bulk of which is distributed over the top side of the glove, having a mass of not less than 114 grams.
- (4) A glove of a type the use of which has been prohibited by the Minister by notification published in the Gazette or that has been rejected for use under clause 38 must not be used.
- (5) Padding in gloves must not be displaced, broken or imperfect in any way.
- (6) Glove laces must be tied on the outside of the back of the wrists, and the portions of laces tied on the wrists must be covered with surgical adhesive tape that is 7.6 centimetres wide.
- (7) Gloves must be in a clean and serviceable condition.
- (8) Unless otherwise approved in writing by the Authority before the contest, gloves must be placed on the hands of the contestants only after they have entered the ring and immediately before the contest.

Clause 37 Boxing and Wrestling Control Regulation 2005

Part 3 Boxing contests

37 Padding

- (1) A person must not promote a kick boxing contest unless the provisions of this clause with respect to contestants' padding are complied with.
Maximum penalty: 5 penalty units.
- (2) Each contestant must wear foot pads and shin pads that comply with clause 40 (2) and are approved by the referee before the contest.

38 Inspection of gloves and padding

The boxing inspector or attending member:

- (a) must inspect the contestants' gloves and padding before the commencement of the contest, and may inspect them at any time between rounds of the contest or after the contest, and
- (b) may reject any glove or padding that is unfit for use in the contest.

39 Bandages

- (1) Except where the Authority has otherwise approved in writing before a contest, the attending member or boxing inspector (or, if neither is present, the referee) must inspect the bandages and taping before the contest and ensure that they conform with this clause.
Maximum penalty: 5 penalty units.
- (2) Bandages used on each hand of a boxer in a boxing contest must be of a width of not less than 5 centimetres and a length of not more than 5 metres for each hand and must be clean and of a soft surgical type.
- (3) Adhesive tape must be used to secure the bandages on each hand.
- (4) The total length of adhesive tape used on each hand must not exceed 2.5 metres and the tape must not be more than 2.5 centimetres wide.
- (5) Bandages and adhesive tape must not be affixed in a way detrimental to an opponent.

40 Boots, shorts, protector and mouth guard

- (1) A person must not box in a fist fighting contest unless the person wears:
 - (a) light boots without spikes and heels or, with the permission of the referee, is bare foot, and
 - (b) boxing shorts, and
 - (c) a fully padded cup (groin) protector, and

Boxing and Wrestling Control Regulation 2005

Clause 41

Boxing contests

Part 3

(d) a mouth guard, except where the medical practitioner in attendance at the contest otherwise directs, and

(e) gloves.

Maximum penalty: 5 penalty units.

(2) A person must not box in a kick boxing contest unless the person wears:

(a) foot pads that cover the top of the foot including the instep and ankle but not the sole of the foot, and

(b) shin pads that are secure and cover the shin, and

(c) long trousers of light material or boxing shorts, and

(d) a cup (groin) protector, and

(e) a mouth guard, except where the medical practitioner in attendance at the contest otherwise directs, and

(f) gloves.

Maximum penalty: 5 penalty units.

(3) If the referee becomes aware that a contestant has ceased wearing a mouthguard during a round, the referee:

(a) must stop the contest at the first appropriate time and call time out, and

(b) must ensure that the contestant's mouthguard has been cleaned and replaced before continuing the contest, and

(c) must issue a warning to the contestant if the referee is of the opinion that the contestant deliberately ceased wearing the mouthguard.

(4) The referee must deduct a point from a contestant each time that the contestant, in the opinion of the referee, deliberately ceases wearing a mouthguard during a round after being warned by the referee under subclause (3).

41 Foreign substances

(1) Before the commencement of a boxing contest, the referee must inspect each contestant, each contestant's gloves and any padding to ensure that no foreign substances have been applied to either the body of the contestant, the gloves or any padding to the detriment of the contestant's opponent.

Maximum penalty: 5 penalty units.

(2) The referee may permit a contestant in a boxing contest to use a protective covering of a non-abrasive type to protect the contestant's eyebrows.

Clause 41 Boxing and Wrestling Control Regulation 2005

Part 3 Boxing contests

- (3) The referee must not permit a contestant in a boxing contest to wear straps, buckles or metal objects that may cause any injury.
Maximum penalty: 5 penalty units.

Boxing and Wrestling Control Regulation 2005

Clause 42

Miscellaneous

Part 4

Part 4 Miscellaneous

42 Medical record card

For the purposes of section 33 (1) (b) (ii) of the Act, the prescribed form for a boxer's medical record card is Form 8.

43 Replacement of spoilt, lost or destroyed books or cards

For the purposes of section 40 (1) of the Act, the prescribed fee for the issue of a duplicate medical record book or medical record card is \$20.

44 Prohibited venues

For the purposes of section 62 (d) of the Act, licensed premises within the meaning of the *Liquor Act 1982*, other than licensed premises at the following places, are prescribed:

- (a) State Sports Centre,
- (b) Sydney Entertainment Centre,
- (c) Star City Casino,
- (d) any exhibition or convention centre within the Darling Harbour Development Area (within the meaning of Part 7 of Schedule 6 to the *Environmental Planning and Assessment Act 1979*),
- (e) the Sydney Superdome.

45 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Boxing and Wrestling Control Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.

Boxing and Wrestling Control Regulation 2005

Schedule 1 Forms

Schedule 1 Forms

(Clause 3 (2))

Form 1 Application for boxer’s registration or renewal of registration

(Boxing and Wrestling Control Regulation 2005, clause 6 (1))

Important notes for applicant

- 1 You must complete ALL sections (A, B and C) of this application, and sign and date it in the spaces provided. If you do not, your application will not be processed.
- 2 You must include a certificate of fitness for boxing and the appropriate registration fee with your application.
- 3 If you are a boxer who is registered in any country other than Australia, you must include with your application written evidence from the appropriate controlling body of that country that you are eligible to participate in any boxing contest conducted in that country.
- 4 If this is your first application for registration, you must include with your application:
 - (a) 2 passport-size photos of yourself, and
 - (b) a certified copy or certified extract of your birth certificate or other evidence of your date of birth acceptable to the Boxing Authority of New South Wales.

Section A

** Please cross out whichever does not apply.*

I apply to be registered/re-registered* in the register of boxers as a boxer (fist fighting/kick boxing*) and I state that:

- 1 my full name is (surname) (other names)
- 2 my residential address is
- 3 I want to use this name for boxing purposes
- 4 my date of birth is
- 5 I have not previously been registered as a boxer/have previously been registered as a boxer and my Registration Number is*
- 6 I have/have not* previously had my registration as a boxer cancelled or suspended in New South Wales or elsewhere.
- 7 I enclose a certificate of fitness for boxing from a medical practitioner.
Note. The medical practitioner must have given the certificate not more than 7 days before the date of this application.
- 8 I enclose payment of \$40 being the registration or renewal of registration fee.

Applicant’s signature
Date

Boxing and Wrestling Control Regulation 2005

Forms

Schedule 1

Section B

Please complete the following details in relation to your last 6 contests:

| | Date of contest | Venue | Opponent | Result | Result of physical held after contest |
|---|-----------------|-------|----------|--------|---------------------------------------|
| 1 | | | | | |
| 2 | | | | | |
| 3 | | | | | |
| 4 | | | | | |
| 5 | | | | | |
| 6 | | | | | |

Section C

For record purposes, please provide your usual signature in ink in the space provided below:

.....

Form 2 Certificate of fitness for boxing—Pre-registration

(Boxing and Wrestling Control Regulation 2005, clause 6 (2))

Notes for medical practitioner

Introduction

The purpose of a medical examination of persons wanting to register or re-register as a boxer under the *Boxing and Wrestling Control Act 1986* is to minimise the risks of participation in boxing sports. Although such an examination will not prevent injuries arising directly from the effects of blows, the purpose is to detect those persons who are particularly at risk due to pre-existing disease or anatomical abnormalities.

This examination will be the first examination for a boxer wishing to register or re-register under the Act. It involves a full physical examination, including an analysis of urine, and may require an ECG. The *Boxing and Wrestling Control Act 1986* also requires a boxer to be examined by a medical practitioner before and after every contest, and at any other time directed by the Boxing Authority of New South Wales (the Authority). These examinations are for the benefit and welfare of the boxer. Please assist in the prevention of injury and disability.

General

Boxers should be in good general health. Although not necessarily excluding participation, excessive weight or wasting should be considered with caution.

In examining the person, the medical practitioner should look for abnormalities that:

- (a) decrease the person's ability to defend himself, or
- (b) increase the risk of injury to the person.

Boxing and Wrestling Control Regulation 2005

Schedule 1 Forms

Also, the medical practitioner should note (at item 4 under the heading "Medical practitioner's report" in this certificate) any other abnormality of which the Authority should be aware, even if that abnormality may not be relevant to the person's registration as a boxer.

Indications of decreased ability to defend

Indications of decreased ability to defend may include the following:

- (a) loss of sensation, particularly sight or hearing,
- (b) slow, clumsy movements, eg cerebral palsy,
- (c) muscular or joint disease or both,
- (d) lesions of balance or co-ordination,
- (e) easy fatigability, secondary to heart or renal disease,
- (f) respiratory disease, chronic or periodic, eg asthma.

Indications of increased risk of injury

Indications of increased risk of injury may include the following:

- (a) bleeding tendency, eg haemophilia,
- (b) past history of multiple fractures,
- (c) increased size of viscera, especially liver or spleen,
- (d) undescended testes,
- (e) loss or abnormality of paired organs,
- (f) poorly controlled diseases, eg hypertension or diabetes,
- (g) disease with poor healing or potential joint instability, eg collagen disease,
- (h) transient or prolonged neurological systems or signs, including headache,
- (i) previous injury with incomplete recovery of function or complicating sequelae.

Conclusion

In general, the Authority reserves the right to exclude boxers on medical grounds. However, if a significant abnormality exists it would be appreciated if all available information (including consultation by relevant consultants) is provided so that the Authority can make an informed decision as to the suitability of the applicant for registration.

Medical report

Name of person being examined

Address of that person

The following questions are to be directed to the person being examined. Please record the person's answers in the space provided:

- 1 What is your date of birth?
- 2 What is your present occupation and what were your past occupations?
- 3 Have you had any previous involvement in boxing or contact sports?
If yes, please give details of any injuries arising from that involvement
- 4 Do you drink alcohol?
- 5 Do you smoke?

Boxing and Wrestling Control Regulation 2005

Forms

Schedule 1

- 6 Have you ever been overseas? If yes, did you suffer any illness while overseas?
- 7 Has your weight altered in the past 12 months?
If yes, please state the increase (kg) or decrease (kg)
- 8 During the last 5 years, have you (occasionally or regularly) taken any stimulants, sedatives, medications or drugs by mouth, injection, or by any other means? If yes, please give details
In the case of prescribed medication, please also include the full particulars of that medication in the table to question 9.
- 9 During the last 5 years, have you had any medical examination, advice, treatment, or been in hospital?
If yes, please give full particulars of each instance (including X-ray, electrocardiogram or other special tests):

| Date | Name and address of doctor or hospital | Advice, treatment, medication, type of examination | Reason (If illness or injury, please give duration and date of recovery) |
|-------|--|--|--|
| | | | |
| | | | |
| | | | |

- 10 Please answer yes or no as to whether you have ever had any of the following. If yes, please give the name and address of the diagnosing doctor (if any) and full particulars (including duration dates):
 - (a) high blood pressure?
 - (b) pain in the chest?
 - (c) rheumatic fever or any heart complaint?
 - (d) indigestion, gastric or duodenal ulcer?
 - (e) asthma, tuberculosis or any other lung disease?
 - (f) bowel, liver or gall bladder disease?
 - (g) epilepsy, fainting attacks or fits of any kind?
 - (h) mental or nervous disorder or breakdown?
 - (i) kidney or bladder disease, including renal colic, or stone, pyelitis or cystitis?
 - (j) diabetes, gout, cancer or tumour of any type?
 - (k) coughing of blood, or passage of blood from the bowel or in the urine?
 - (l) easy bruising or severe haemorrhage?
 - (m) multiple ligament or bone or joint injuries?
 - (n) any other illnesses or operations?

Boxing and Wrestling Control Regulation 2005

Schedule 1 Forms

Physical examination**General appearance**

- 1 Is there anything unfavourable in the person's appearance or development?
.....
- 2 Please give particulars of any permanent marks or scars

Body measurements

- 3 Please give the following measurements:
height (cm)
weight (kg)
chest (cm)
abdomen at umbilicus (cm)
- 4 If chest expansion is less than 5 cm, please comment as to apparent cause
.....

Cardio-vascular

- 5 What is the pulse rate? per minute BP
- 6 Is the heart enlarged?
- 7 Is there any abnormality of heart sounds or rhythm?
- 8 What is the result of ECG (if over 35 years old)?
- 9 Is there any abnormality of the vascular system?

Other abnormalities

- 10 Is there abnormality of the mouth, head, neck or nose?
- 11 Check ROM of neck
- 12 Are dentures worn?
- 13 Is a hernia present?
- 14 Are there any abnormalities of external genitalia?
- If yes, please describe
- 15 Are the kidneys, or is the liver or spleen, enlarged or abnormal in any way?
..... If yes, please give particulars
- 16 Is there any abnormality of lymph glands in the neck axillae or inguinal regions?
..... If yes, please give particulars

Examination of urine

- 17 The urine should be passed at the time of examination. If it is not, please state the
circumstances
- 18 Is there any sugar in the urine?
- 19 Is there any albumin in the urine? If yes, an early morning specimen and
a further specimen passed later in the day should be examined. Please record the
findings below (including specific gravity) before completing the Medical
practitioner's report in this certificate

Boxing and Wrestling Control Regulation 2005

Forms

Schedule 1

20 Do you consider the genito-urinary system to be normal and healthy?

Nervous system

21 Please comment on sight (acuity) R L

22 Is there any abnormality of the cranial nerves?

23 Is there any hearing defect apparent? If abnormal, please comment on aetiology and possible investigation

24 Please comment on the following:

- (a) eye gaze
- (b) cerebellum function
- (c) body balance and co-ordination
- (d) muscle tone
- (e) muscle strength
- (f) sensation

25 Do the trunk and limbs have a full ROM?

26 Are there any joint abnormalities?

27 Is speech normal?

28 Is there any evidence of intellectual impairment?

Medical practitioner's report

1 Do you consider that any medical attendant's reports or any other special tests are required?

2 Do you consider the person examined to be predisposed to any particular ailment or injury?

3 Do you consider this person fit to participate in boxing?..... If you have any reservations about the fitness of this person to participate, please state them

4 Do you have any other or further comments to make about this person?

5 I certify that the applicant is a male person.

Signature of medical practitioner

Name of medical practitioner (please print)

Phone number

Address of practice

Date

Release of information

To be completed by the person examined.

I authorise the release of information contained in this certificate of fitness to the Boxing Authority of New South Wales and its officers.

Signature of person examined

Date

Boxing and Wrestling Control Regulation 2005

Schedule 1 Forms

Form 3 Application for boxing industry participant's registration or renewal of registration

(Boxing and Wrestling Control Regulation 2005, clause 9 (1))

* Please cross out whichever does not apply.

I apply to be registered/re-registered* as an industry participant of the following class/classes* (eg Promoter (fist fighting), Promoter (kick boxing)):

- (a) (b)
- (c) (d)
- (e) (f)

and I state that:

- 1 my full name is (surname)
(other names)
- 2 my residential address is
phone (private) (work)
- 3 my date of birth is
- 4 I have not previously been registered as a boxing industry participant/have previously been registered as a boxing industry participant and my Registration Number is*
- 5 I have/have not* previously had my registration as a boxing industry participant cancelled or suspended in New South Wales or elsewhere.
- 6 I have/have not* completed a Boxing Medical Accreditation Course conducted by or on behalf of the Boxing Authority of New South Wales.
- 7 I enclose payment of \$..... being the registration or renewal of registration fee.

Applicant's signature

Date

Form 4 Application for permission to promote or arrange a boxing contest

(Boxing and Wrestling Control Regulation 2005, clause 12)

Important notes for applicant

- (a) You must complete sections A AND B of this application, and sign and date it in the spaces provided. If you do not, your application will not be processed.
- (b) It is an offence under the *Boxing and Wrestling Control Act 1986* to promote or arrange a boxing contest unless a permit has been issued.
- (c) Any permit issued as a result of this application is issued on the basis of the information provided in the application. You must notify the Boxing Authority of New South Wales of any change to that information.

Boxing and Wrestling Control Regulation 2005

Forms

Schedule 1

Section A

** Please cross out whichever does not apply.*

I apply for permission to promote or arrange a fist fighting/kick boxing* contest at this venue on this date with the first contest scheduled to start at this time (am/pm*) and I state that:

- 1 my full name is (surname) (other names)
- 2 my residential address is
phone (private) (work)
- 3 I am a registered boxing promoter and my Registration Number is
- 4 the details of the promotion to which this application relates are set out in section B of this Form.
- 5 I enclose payment of \$50 being the prescribed application fee.

Applicant's signature

Date

Section B

Please complete the following details relating to the proposed promotion:

Proposed matchmaker

Name Reg No

Proposed contestants

| Name | Reg No | Vs | Name | Reg No |
|-------|--------|----|-------|--------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Boxing and Wrestling Control Regulation 2005

Schedule 1 Forms

Form 5 Pre-contest examination

(Boxing and Wrestling Control Regulation 2005, clause 17)

Section A

To be completed by medical practitioner in attendance.

- 1 Name of person examined
- 2 Boxing name of person
- 3 Place of examination
- 4 Weight (to be weighed in front of medical practitioner) (kg)
- 5 BP
- 6 Please comment generally on the person (including on any evidence of disease or infection)
- 7 Is the person excessively wasted or obese? If yes, please comment
- 8 Was the person's last fight contested outside New South Wales?
If yes, what injuries (if any) were sustained by the boxer?
- 9 In relation to the following items, please tick if normal or cross and comment in the space provided if abnormal:
 - (a) skin (including scar tissue)
 - (b) heart and chest
 - (c) liver and spleen
 - (d) balance
 - (e) tremor
 - (f) co-ordination
 - (g) strength
 - (h) pupil size and reaction
 - (i) vision
 - (j) hearing
 - (k) speech
 - (l) mouth and jaw (including TMJ)
 - (m) nose and nasal passages
 - (n) cervical spine (especially ROM)
 - (o) upper limbs lower limbs
 - (p) trunk

* Please cross out whichever does not apply in the following text:

I certify that, in my opinion, this person is/is not* medically fit for boxing.

If the person is not medically fit for boxing, please complete the next paragraph:

Boxing and Wrestling Control Regulation 2005

Forms

Schedule 1

In my opinion, this person should not engage in any boxing contest/any boxing contest or any sparring* before /..... /.....

Other comments

Signature of medical practitioner

Date

Note. If you are of the opinion that the person examined should not engage in boxing contests or boxing contests and sparring for any period, you should:

- (a) make the appropriate entry on the Boxer's medical record card, and
(b) forward this report to the Boxing Authority of New South Wales.

Section B

To be completed by the person examined.

Please cross out whichever of the following paragraphs does not apply and, if applicable, provide the requested details:

I certify that my last contest was held within New South Wales.

I certify that my last contest was held outside New South Wales and the details of that contest are as follows:

Date

Venue

Opponent

Result

Signature of person examined

Form 6 After-contest examination

(Boxing and Wrestling Control Regulation 2005, clause 18)

To be completed by medical practitioner in attendance.

- 1 Name of person examined
2 Result of the boxing contest for the person
3 Is there any evidence of injury arising from the contest?
..... If yes, please state your findings
4 Does the person have any other injuries? If yes, please give particulars
5 What procedure is to be carried out in respect of the injuries (if any) referred to in
questions 3 and 4?

Boxing and Wrestling Control Regulation 2005

Schedule 1 Forms

6 If applicable, please complete the next paragraph:
 * Please cross out whichever does not apply.
 In my opinion, this person should not engage in any boxing contest/any boxing contest or any sparring* before /..... /.....

7 Other comments

Signature of medical practitioner

Date

Note. If you are of the opinion that the person examined should not engage in boxing contests or boxing contests and sparring for any period, you should:

- (a) make the appropriate entry on the Boxer's medical record card, and
- (b) forward this report to the Boxing Authority of New South Wales.

Form 7 Boxing result sheet

(Boxing and Wrestling Control Regulation 2005, clause 27)

Section A

To be completed by a boxing inspector or member of the Boxing Authority of New South Wales present at the boxing contest.

Venue Date

Results table

| Scheduled rounds or duration | Boxer 1 | | | Boxer 2 | | | Name of winner (if any) | Contest decision |
|------------------------------|---------|--------|------------------------------------|---------|--------|------------------------------------|-------------------------|------------------|
| | Name | Weight | Boxer's medical record card number | Name | Weight | Boxer's medical record card number | | |
| | | | | | | | | |
| | | | | | | | | |
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Comments

Boxing and Wrestling Control Regulation 2005

Forms

Schedule 1

The abbreviations to be used when completing the "Contest decision" column in the results table are as follows:

- WI if opponent injured—unable to continue
- NC if referee ruled no contest
- WP if won on points
- WKO (4) if won by knockout—(eg in fourth round)
- WD if opponent disqualified
- D if contest drawn

Section B

Name of medical practitioner in attendance

Signature of medical practitioner Date

Name of boxing inspector or member of the Boxing Authority who completed Section A ...

Signature of boxing inspector or member Date

The boxing inspector or member is to forward this result sheet to the Boxing Authority of New South Wales when completed.

Form 8 Boxer's medical record card No

(Boxing and Wrestling Control Regulation 2005, clause 42)

Boxer's details

Name

Address

Details of contest

To be completed by boxing inspector or member of Boxing Authority of New South Wales present at weigh-in.

Please complete the following details relating to the proposed contest:

Date

Venue

Weight

Opponent

Scheduled length of contest

Signature of boxing inspector or member of the Boxing Authority of New South Wales

Date

Boxing and Wrestling Control Regulation 2005

Schedule 1 Forms

Pre-fight medical examination

To be completed by the medical practitioner who conducts the medical examination.

** Please cross out whichever does not apply.*

I certify that, in my opinion, the boxer is/is not* medically fit to engage in the proposed contest.

If the person is not medically fit for boxing, please complete the next paragraph:

In my opinion, this person should not engage in any boxing contest/any boxing contest or any sparring* before /..... /.....

Signature of medical practitioner

Date

Contest decision

To be completed by boxing inspector or member of Boxing Authority of New South Wales present at the boxing contest.

Contest decision

Signature of boxing inspector or member of Boxing Authority of New South Wales Date

After-fight medical examination

If the next paragraph is applicable, it is to be completed by the medical practitioner who conducts the examination.

**Please cross out whichever does not apply.*

In my opinion, this person should not engage in any boxing contest/any boxing contest or any sparring* before /..... /.....

Signature of medical practitioner

Date

Boxing and Wrestling Control Regulation 2005

Industry participants

Schedule 2

Schedule 2 Industry participants

(Clause 10)

| Column 1 | Column 2 |
|----------------------------|----------------------------|
| Referee (fist fighting) | Trainer (fist fighting) |
| Referee (kick boxing) | Trainer (kick boxing) |
| Judge (fist fighting) | Matchmaker (fist fighting) |
| Judge (kick boxing) | Matchmaker (kick boxing) |
| Timekeeper (fist fighting) | Second (fist fighting) |
| Timekeeper (kick boxing) | Second (kick boxing) |
| | Manager (fist fighting) |
| | Manager (kick boxing) |
| | Promoter (fist fighting) |
| | Promoter (kick boxing) |



New South Wales

Coal and Oil Shale Mine Workers (Superannuation) Regulation 2005

under the

Coal and Oil Shale Mine Workers (Superannuation) Act 1941

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941*.

JOHN DELLA BOSCA, M.L.C.,
Special Minister of State

Explanatory note

The object of this Regulation is to remake the provisions of the *Coal and Oil Shale Mine Workers (Superannuation) Regulation 2000*. That Regulation is to be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) specifies the way in which applications for the suspension of certain provisions of the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941* (**the Act**) are made, and
- (b) prescribes a class of mine workers for the purposes of section 5A (Extension of compulsory retiring age) of the Act, and
- (c) requires mine workers to lodge notice of certain particulars with the mine owner and the mine owner to forward the notice to the Corporate Trustee.

This Regulation is made under the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941*, including sections 5A and 32 (the general regulation-making power).

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

Coal and Oil Shale Mine Workers (Superannuation) Regulation 2005

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Coal and Oil Shale Mine Workers (Superannuation) Regulation 2005

Clause 1

Coal and Oil Shale Mine Workers (Superannuation) Regulation 2005

under the

Coal and Oil Shale Mine Workers (Superannuation) Act 1941

1 Name of Regulation

This Regulation is the *Coal and Oil Shale Mine Workers (Superannuation) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Coal and Oil Shale Mine Workers (Superannuation) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941*.

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

4 Application for suspension of section 5 (1) and (2)

An application for the suspension of the provisions of section 5 (1) and (2) of the Act must:

- (a) be in writing, and
- (b) set out the reasons for which those provisions should be suspended, and
- (c) specify the date on and from which that suspension should have effect, and
- (d) be lodged with the Corporate Trustee not less than 30 days before that date.

5 Variation of retirement age

(1) The class of mine workers who are employees within the meaning of the *Coal Mining Industry (Staff) Award 2004*, and who are covered by that Award, is prescribed for the purposes of section 5A of the Act.

Clause 6 Coal and Oil Shale Mine Workers (Superannuation) Regulation 2005

- (2) In this clause, *Coal Mining Industry (Staff) Award 2004* means the Award of that name as in force from time to time under the *Workplace Relations Act 1996* of the Commonwealth, and any Award replacing that Award.

6 Information concerning mine workers

- (1) A mine worker must cause to be given to the owner of the mine a notice stating the mine worker's date of birth and providing such other particulars concerning the mine worker as the owner may reasonably request.
- (2) The mine worker must ensure that the notice:
- (a) is signed by the mine worker, and
 - (b) is given within 14 days after the mine worker becomes employed at the mine.

Maximum penalty: 5 penalty units.

- (3) The owner must forward the notice to the Corporate Trustee as soon as practicable after receiving it.

Maximum penalty: 5 penalty units.

7 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Coal and Oil Shale Mine Workers (Superannuation) Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

under the

Co-operative Housing and Starr-Bowkett Societies Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Co-operative Housing and Starr-Bowkett Societies Act 1998*.

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake, with minor modifications, the provisions of the *Co-operative Housing and Starr-Bowkett Societies Regulation 2000*. That Regulation is repealed by section 10 (2) of the *Subordinate Legislation Act 1989* on 1 September 2005. The new Regulation deals with the following matters:

- (a) persons who are associates of bodies corporate or other persons for the purposes of the *Co-operative Housing and Starr-Bowkett Societies Act 1998* (the **Principal Act**) (Part 2),
- (b) documents that may be inspected by members of the public (Part 3),
- (c) the registers that are to be kept by co-operative housing societies or Starr-Bowkett societies (Part 4),
- (d) the application of provisions of Chapter 2K (Charges) of the *Corporations Act 2001* of the Commonwealth to co-operative housing bodies (Part 5),
- (e) the application of provisions, relating to schemes of arrangement and receivers and managers, of Part 5.1 of the *Corporations Act 2001* of the Commonwealth to co-operative housing bodies (Part 6 and Schedule 3),
- (f) the application of provisions, relating to winding up, of the *Corporations Act 2001* of the Commonwealth to co-operative housing societies or Starr-Bowkett societies (Part 7),
- (g) the functions, formation and registration of associations of societies and the application of the Principal Act to them (Part 8),

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Explanatory note

- (h) requirements relating to audits and annual returns (Part 9 and Forms 5–8 of Schedule 1),
- (i) fees and allowances (clauses 27–29 and Schedule 2),
- (j) other miscellaneous provisions (Part 1 and clauses 30–35).

This Regulation is made under the *Co-operative Housing and Starr-Bowkett Societies Act 1998*, including sections 4, 23, 29, 32, 88, 100, 115, 117, 118, 119, 122, 137, 138, 140, 145, 148, 153, 173, 174, 177, 183, 184, 190, 209 and 225 (the general regulation-making power) and Schedules 2 and 3 to the Act.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

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| Co-operative Housing and Starr-Bowkett Societies Regulation 2005 | Clause 1 |
| Preliminary | Part 1 |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

under the

Co-operative Housing and Starr-Bowkett Societies Act 1998

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Co-operative Housing and Starr-Bowkett Societies Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Co-operative Housing and Starr-Bowkett Societies Regulation 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
Corporations Regulations means the *Corporations Regulations 2001* of the Commonwealth.
the Act or *the 1998 Act* means the *Co-operative Housing and Starr-Bowkett Societies Act 1998*.
- (2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 1.
- (3) Notes included in the text of this Regulation do not form part of this Regulation.

| | |
|----------|--|
| Clause 4 | Co-operative Housing and Starr-Bowkett Societies Regulation 2005 |
| Part 2 | Associates |

Part 2 Associates

4 Preliminary

This Part has effect for the purposes of section 4 (2) (g) of the Act.

5 Associate of a body corporate

An *associate* of a body corporate includes a director or secretary of a related body corporate.

6 General

- (1) An *associate* of a person includes any other person in concert with whom the person is acting or proposes to act.
- (2) If a person has entered, or proposes to enter, into a transaction, or has done, or proposes to do, any act or thing, in order to become associated with another person as mentioned in this Regulation or in section 4 of the Act, a reference to an associate of the person includes a reference to that other person.
- (3) However, a person is not an associate of another person by virtue of this clause merely because of one or more of the following:
 - (a) one gives advice to the other, or acts on the other's behalf, in the proper performance of the functions attaching to a professional capacity or a business relationship,
 - (b) one, a client, gives specific instructions to the other, whose ordinary business includes dealing in securities, to acquire shares on the client's behalf in the ordinary course of that business,
 - (c) one has appointed the other, otherwise than for valuable consideration given by the other or by an associate of the other, to vote as a proxy or representative at a meeting of members, or of a class of members, of a body corporate.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Clause 7

Inspection of documents

Part 3

Part 3 Inspection of documents

7 Inspection of documents

For the purposes of section 23 (1) of the Act, the prescribed documents are as follows:

- (a) documents lodged with the Registrar under section 50 (2) (Registration) of the Act that result in the registration of the society concerned,
- (b) rules registered by the Registrar under section 50 (4) (Registration) of the Act,
- (c) rules of a merged society registered by the Registrar under section 154 (Registrar may register merged society) of the Act,
- (d) documents lodged with the Registrar under section 184 (2) (Registration) of the Act and clause 22 of this Regulation that result in the registration of the association concerned,
- (e) rules of an association registered by the Registrar under section 184 (4) (Registration) of the Act,
- (f) written notices given to the Registrar under section 87 (Registered office) of the Act,
- (g) statements approved by the Registrar under section 153 (3) (Application for registration of merger or transfer of engagements between societies of the same type) of the Act,
- (h) copies of certificates of incorporation issued by the Registrar under section 51 (Certificate of incorporation), 154 (Registrar may register merged society) or 185 (Certificate of incorporation) of the Act,
- (i) copies of certificates of confirmation issued by the Registrar under section 155 (Certificate of confirmation (voluntary transfer)) or 158 (Certificate of confirmation (transfer by direction)) of the Act,
- (j) alterations of rules registered under section 67 (Registration of alteration of rules) of the Act,
- (k) special resolutions registered under section 115 (Special resolutions) of the Act,
- (l) documents evidencing exemptions granted by the Registrar under section 84 (4) (Use of words “co-operative housing society” or “Starr-Bowkett”) or 153 (5) (Application for registration of merger or transfer of engagements between societies of the same type) of the Act,
- (m) copies of orders by the Registrar granting relief under section 149 (Relief from requirements as to accounts and audit) of the Act,

| | |
|----------|--|
| Clause 7 | Co-operative Housing and Starr-Bowkett Societies Regulation 2005 |
| Part 3 | Inspection of documents |

- (n) documents evidencing approvals by the Registrar under section 53 (1) (d) (Powers of societies), 80 (4) (Registration of name and change of name), 105 (2) (Management contracts), 122 (1) (c) (Form and evidentiary value of registers) or 178 (3) (Voluntary winding-up) of the Act,
- (o) documents evidencing approvals by the Registrar under section 66 (3) (Alteration of rules by board of directors), 68 (5) (Power of Registrar to require modification of rules) or 69 (5) (Power of Registrar to modify rules to facilitate transfer of engagements) of the Act,
- (p) determinations by the Registrar under section 153 (2) (Application for registration of merger or transfer of engagements between societies of the same type) of the Act,
- (q) written notices given by the Registrar under section 68 (3) (Power of Registrar to require modification of rules) or 69 (3) (Power of Registrar to modify rules to facilitate transfer of engagements) of the Act,
- (r) returns lodged with the Registrar under section 100 (11) (Declaration of interest), 118 (10) (Register of directors), 137 (5) (e) (Qualifications of auditors) or 148 (1) (Returns) of the Act,
- (s) copies of orders of the Court issued under section 106 (Duties of directors and officers), 209 (Powers of Court), 215 (Power of Court to assess damages against certain persons), 223 (Injunctions) or 224 (Power to grant relief) of the Act, or any other orders of the Court relating to a co-operative housing body, or to a register required to be kept by the Registrar, that are required by the Court to be lodged or filed with the Registrar,
- (t) documents lodged with the Registrar under section 263, 264, 268 or 269 of the Corporations Act (as applicable to a co-operative housing body by virtue of section 88 of the Act),
- (u) documents relating to a court approved scheme of arrangement or reconstruction lodged or filed with the Registrar under Part 5.1 of the Corporations Act (as applicable to a society by virtue of section 173 of the Act),
- (v) documents lodged or filed with the Registrar under Part 5.2 of the Corporations Act (as applicable to a society by virtue of section 174 of the Act) other than reports under section 422 of the Corporations Act,
- (w) documents lodged or filed with the Registrar under Part 5.4A, 5.4B, 5.5 or 5.6 of the Corporations Act (as applicable to a matter by virtue of section 177 of the Act) other than reports under section 533 of the Corporations Act.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Clause 8

Registers

Part 4

Part 4 Registers

8 Prescribed registers

- (1) For the purposes of section 117 of the Act, the following registers are prescribed:
- (a) a register of loans made to members and securities taken, containing the following information:
 - (i) the name of each member to whom a loan is made,
 - (ii) the amount of the loan,
 - (iii) the date on which the loan was approved,
 - (iv) the folio reference to the minute evidencing the board's decision to make the loan,
 - (v) a reference identifying the account created in relation to the loan,
 - (vi) the date of each advance made in relation to the loan and the amount of each advance so made,
 - (vii) where the loan is secured by way of mortgage of real property—the address and the particulars of title of the property and a reference identifying the mortgage agreement,
 - (viii) where the loan is secured otherwise than by way of a mortgage of real property—particulars of the security taken and a reference identifying the agreement that evidences that security,
 - (ix) the location of the documents relating to the security taken in respect of the loan,
 - (x) particulars of any movement of those documents from that location,
 - (xi) the date of the final repayment made in relation to the loan,
 - (b) a register of loans raised and securities given, in a form approved by the Registrar,
 - (c) in the case of a Starr-Bowkett society, a register of deposits received, in a form approved by the Registrar,
 - (d) a register of loans guaranteed, in a form approved by the Registrar.
- (2) A Starr-Bowkett society that by its rules provides that the order in which loans are to be made may be determined by ballot or sale is to keep a register of appropriations in a form approved by the Registrar.

| | |
|----------|--|
| Clause 9 | Co-operative Housing and Starr-Bowkett Societies Regulation 2005 |
| Part 4 | Registers |

9 Register of members

For the purposes of section 119 (1) (c) of the Act, the following information is prescribed:

- (a) the occupation (if any) of each member,
- (b) the shares (if any) held by each member and the date on which those shares were allotted,
- (c) the amount paid on the shares (if any) of each member,
- (d) the date of and circumstances under which a person's membership terminated.

10 Currency of information in registers

The information contained in a written instrument prepared for the purposes of section 122 (4) of the Act must be current as at a date that is no earlier than 7 days before the day on which the instrument is made available.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Clause 11

Registration of charges

Part 5

Part 5 Registration of charges

11 Preliminary

This Part has effect for the purposes of section 88 (c) of the Act.

12 Modifications of Corporations Act

- (1) Section 265 of the Corporations Act is modified by replacing the reference to the Australian Register of Company Charges with a reference to the Register of Co-operative Housing Society Charges.
- (2) Section 266 of the Corporations Act is modified by replacing sections 266 (1) (a)–(ba) and 266 (3) (a)–(ba) with the following:
 - (a) an order is made, or a resolution is passed, for the winding-up of the co-operative housing body, or
 - (aa) the Registrar gives a certificate under section 176 of the *Co-operative Housing and Starr-Bowkett Societies Act 1998* for the winding-up of the co-operative housing body, or
 - (b) an administrator of a co-operative housing body is appointed by the Registrar under section 43 of the *Co-operative Housing and Starr-Bowkett Societies Act 1998*.
- (3) Section 266 of the Corporations Act is modified as follows:
 - (a) by omitting from section 266 (1) the words “, or the deed’s administrator”,
 - (b) by omitting from section 266 (5) the words “, or an administrator of a deed of company arrangement executed by the company”,
 - (c) by omitting from section 266 (7) the matter “, (c) and (d)” and by inserting instead the matter “and (c)”.
- (4) Section 266 (6) of the Corporations Act is modified by replacing section 266 (6) (c) and (d) with the following:
 - (c) the Registrar giving a certificate for the winding-up of the co-operative housing body under section 176 of the 1998 Act, or
 - (d) an administrator of the co-operative housing body being appointed under section 43 of the 1998 Act.

| | |
|-----------|--|
| Clause 13 | Co-operative Housing and Starr-Bowkett Societies Regulation 2005 |
| Part 5 | Registration of charges |

13 Forms

- (1) A form prescribed for the purposes of a provision of the Corporations Act that by virtue of section 88 of the 1998 Act applies to co-operative housing bodies is the form prescribed by the Corporations Regulations in relation to that provision, with any necessary modifications.
- (2) For the purposes of section 263 (1) (a) (ix) of the Corporations Act, as applied by section 88 of the 1998 Act, the following information is prescribed:

The amount, or rate per cent, of the commission, allowance or discount paid or made either directly or indirectly by the co-operative housing body to a person in consideration of the person's subscribing or agreeing to subscribe, whether absolutely or conditionally, or procuring or agreeing to procure, subscriptions, whether absolute or conditional, for any debentures concerned.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Clause 14

Arrangements, reconstructions, receivers and managers

Part 6

Part 6 Arrangements, reconstructions, receivers and managers

14 Preliminary

This Part has effect for the purposes of sections 173 and 174 of the 1998 Act.

15 Prescribed information as to compromise with creditors or members

For the purposes of section 412 (1) (a) (ii) of the Corporations Act, as applied by section 173 of the 1998 Act, unless the Registrar otherwise allows, the explanatory statement must:

- (a) in respect of a proposed arrangement between a co-operative housing body and its creditors or a co-operative housing body and a class of its creditors, state the matters set out, and have annexed to it the reports and copies of documents referred to, in clause 2 of Schedule 3, and
- (b) in respect of a proposed arrangement between a co-operative housing body and its members or a co-operative housing body and a class of its members, state the matters set out, and have annexed to it the reports and copies of documents referred to, in clause 3 of Schedule 3.

16 Forms

- (1) A form prescribed for the purposes of a provision of the Corporations Act that by virtue of section 173 of the 1998 Act applies to co-operative housing bodies is the form prescribed by the Corporations Regulations in relation to that provision, with any necessary modifications.
- (2) A form prescribed for the purposes of a provision of the Corporations Act that by virtue of section 174 of the 1998 Act applies to co-operative housing bodies is the form prescribed by the Corporations Regulations in relation to that provision, with any necessary modifications.

| | |
|-----------|--|
| Clause 17 | Co-operative Housing and Starr-Bowkett Societies Regulation 2005 |
| Part 7 | Winding-up |

Part 7 Winding-up

17 Preliminary

This Part has effect for the purposes of section 177 of the 1998 Act.

18 Modifications to applications of Corporations Act

- (1) Section 461 of the Corporations Act is modified by replacing section 461 (1) (h) and (j) with the following:
 - (h) the Registrar has, because of an investigation under the *Co-operative Housing and Starr-Bowkett Societies Act 1998* into the affairs of the society, stated that:
 - (i) the society cannot pay its debts and should be wound up, or
 - (ii) it is in the interests of the public or of members or creditors that the society should be wound up, or
 - (j) if the application was made by the Registrar—the Court is of opinion that it is in the interests of the public, of the members or of the creditors that society should be wound up, or
- (2) Section 462 of the Corporations Act is modified by omitting section 462 (2) (h) and (3).
- (3) Section 464 of the Corporations Act is modified:
 - (a) by omitting “Where ASIC is investigating, or has investigated, under Division 1 of Part 3 of the ASIC Act:” from section 464 (1), and
 - (b) by inserting instead “If the Registrar is conducting or has conducted an investigation under the *Co-operative Housing and Starr-Bowkett Societies Act 1998*:”.
- (4) Part 5.7B of the Corporations Act is modified by omitting sections 588J–588L and 588Q.

19 Forms

A form prescribed for the purposes of a provision of the Corporations Act that by virtue of section 177 of the 1998 Act applies to co-operative housing bodies is the form prescribed by the Corporations Regulations in relation to that provision, with any necessary modifications.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Clause 20

Associations

Part 8

Part 8 Associations

20 Additional functions of associations

- (1) For the purposes of section 183 of the Act, the following functions are prescribed:
 - (a) to guarantee the payment of any amount that a society that is a member of the association is or will be liable to pay,
 - (b) to make a secured loan to a person who is a member of a society that is a member of the association for purposes connected with the support by the members of the objects of the component society,
 - (c) to make a secured loan to any corporation or other body corporate if shares in it can be purchased by a society that is a member of the association under section 53 (1) (c) of the Act.
- (2) In this clause, *secured loan* means a loan secured by mortgage (including debenture, lien or charge) given by the person, corporation or other body corporate to whom the loan is made that makes any property of the person, corporation or other body corporate liable specifically or otherwise.

21 Formation of associations: sec 184 (1)

- (1) A proposed association may be formed only if there has been a meeting (the *formation meeting*) for the purpose of forming the association held by at least 2 societies.
- (2) At the formation meeting, there must be presented a copy of the proposed rules of the association and a written statement showing:
 - (a) the objects of the association, and
 - (b) the reasons for believing:
 - (i) that an application for registration of the association should be granted, and
 - (ii) that, if registered, the association will be able to carry out its objects successfully.
- (3) If, at the formation meeting or any subsequent or adjourned meeting, 2 or more societies, after considering the statement and the rules, approve the rules (with or without amendment) and sign an application for membership (or for membership and shares), they may proceed to elect the first directors of the association under the rules as so approved.

Clause 22 Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Part 8 Associations

- (4) An application for shares in a proposed association, made before the registration of the association, may not be withdrawn, and a society that makes such an application is, on the registration of the association, liable to pay the association:
 - (a) the value of the shares for which the society applied, or
 - (b) the value of the minimum number of shares for which a member is entitled to subscribe,whichever is the greater.
- (5) The expenses of, and incidental to, the formation of the association may be paid out of the capital or income of the association.

22 Registration of associations

- (1) For the purposes of section 184 (1) and (2) (b) of the Act, an application to register an association must:
 - (a) be made in the form approved by the Registrar, and
 - (b) be signed by at least 2 directors of the proposed association, and
 - (c) be accompanied by:
 - (i) a copy of the written statement presented to the formation meeting, and signed and certified by the person presiding at the formation meeting and the secretary of the meeting, and
 - (ii) a statement listing the name, address and occupation and place and date of birth of each director, and
 - (iii) any other particulars that the Registrar may require in a particular case.
- (2) The application must be lodged with the Registrar within 2 months after closure of the formation meeting for the proposed association or within such extended period as the Registrar may allow.

23 Application of Act to associations

- (1) For the purposes of section 190 of the Act, the whole of the Act (except Divisions 1 and 2 of Part 3) apply to an association as if the association were a society.
- (2) Section 49 (7) applies to an association as if the association were a society. For that purpose, the subsection is modified by omitting the word “public” and by inserting instead the word “societies”.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Clause 24

Audit and returns

Part 9

Part 9 Audit and returns

24 Prescribed statements and information

For the purposes of section 145 (1) of the Act, the prescribed statements and information are the statements and information specified in section 143 (2) of the Act.

25 Annual returns: secs 148 and 190

- (1) A society must, within 3 months of the close of each financial year for the society, provide the Registrar with the following returns:
 - (a) a list specifying the directors and principal executive officers of the society and of each subsidiary body corporate of the society, as at the date of the return,
 - (b) the accounts of the society made out in accordance with section 128 of the Act for the last financial year of the society,
 - (c) if the society is a holding society, the group accounts made out in accordance with section 129 of the Act for the last financial year of the society,
 - (d) a copy of:
 - (i) the directors' statement prepared under section 133 of the Act, and
 - (ii) the directors' report prepared under section 134 of the Act, and
 - (iii) the auditor's report prepared under section 143 of the Act, for the last financial year of the society.
- (2) The list of directors and principal executive officers specified in subclause (1) (a) is to be in Form 7.
- (3) The annual returns specified in subclause (1) (b) and (c) for a Starr-Bowkett Society are to be in Form 5.
- (4) The annual returns specified in subclause (1) (b) and (c) for a co-operative housing society are to be in Form 6.
- (5) An association listed at the end of clause 5 of Schedule 5 to the Act must, within 5 months and 28 days after the close of each financial year for the association, provide the Registrar with an annual report as set out in Form 1 of Schedule 7 to the *Co-operatives Regulation 2005*.

26 Declarations of interest

The return specifying declarations of interest under section 100 (11) of the Act is to be in Form 8.

| | |
|-----------|--|
| Clause 27 | Co-operative Housing and Starr-Bowkett Societies Regulation 2005 |
| Part 10 | General |

Part 10 General

27 Fees

- (1) The fees to be paid in connection with the administration of the Act, including fees for the lodgment of any documents and additional fees for late lodgment of any documents under the Act, are set out in Schedule 2.
- (2) In Schedule 2:
the 1998 Act means the *Co-operative Housing and Starr-Bowkett Societies Act 1998*.

28 Waiver, reduction or refund of fees

The Registrar may waive, reduce or refund any fee payable by a co-operative housing body under the Act or this Regulation if, in the opinion of the Registrar:

- (a) the body is constituted primarily for a charitable purpose, or
- (b) the body is constituted primarily for the purpose of advancing the welfare of a class of disadvantaged persons, or
- (c) there are special circumstances that satisfy the Registrar that it would be expedient to waive, reduce or refund the fee.

29 Scale of allowances

For the purposes of section 29 (5) of the Act, a person required to attend before an officer under section 29 of the Act is entitled to allowances and expenses on the same scale as a witness attending and giving evidence in criminal proceedings before the District Court.

30 Entry and search—prescribed documents

For the purposes of section 32 (2) (c) of the Act, any documents concerned with the management or administration of a co-operative housing body are prescribed.

31 Voting by postal ballot

For the purposes of sections 115 (1) (b) and 153 (4) (b) of the Act, any postal ballot must be conducted in accordance with Schedule 4.

32 Powers of Court—prescribed persons

For the purposes of section 209 (1) of the Act, any liquidator or administrator appointed under the 1998 Act or the Corporations Act as applied by the 1998 Act may apply to the Court for a declaration.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Clause 33

General

Part 10

33 Prescribed forms

- (1) For the purposes of section 118 (10) of the Act, the prescribed form is Form 1.
- (2) For the purposes of section 137 (5) (e) of the Act, the prescribed form is Form 2.
- (3) For the purposes of section 138 (3) of the Act, the prescribed form is Form 3.
- (4) For the purposes of section 140 (12) of the Act, the prescribed form of notice is Form 4.

34 Securitisation arrangements

- (1) For the purposes of item 27 of Schedule 2 to the Act, the following matter is prescribed as a matter to be provided for in rules of co-operative housing societies:
Whether the society intends to raise money by a securitisation arrangement.
- (2) For the purposes of item 29 of Schedule 3 to the Act, the following matter is prescribed as a matter to be provided for in rules of Starr-Bowkett Societies:
Whether the society intends to raise money by a securitisation arrangement.
- (3) In this clause:
securitisation arrangement means an arrangement:
 - (a) involving the funding of:
 - (i) loans that are provided by a society, or
 - (ii) the purchase of loans by a society,by issuing instruments or entitlements to investors, and
 - (b) under which payments to investors in respect of such instruments or entitlements are principally derived, directly or indirectly, from such loans.

35 Savings

Any act, matter or thing that, immediately before the repeal of the *Co-operative Housing and Starr-Bowkett Societies Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

Schedule 1 Forms

Form 1 Notice of appointment or cessation of appointment of director or officer

(Clause 33 (1))

(Co-operative Housing and Starr-Bowkett Societies Act 1998, section 118 (10))

Name of society

I,
 being *a director/*the principal executive officer/*a secretary of the above society, give notice that the following persons *were appointed/*ceased to be directors/*the principal executive officer/*a secretary of the above society as indicated below.

| Mr/ Mrs/ Ms | Surname (and former surname) | Given names (in full) (and former given names) | Date and place of birth | Occupation | Residential address | Office held | Date of | |
|-------------------|---------------------------------------|--|-------------------------------------|------------|------------------------|----------------|-------------|-----------|
| | | | | | | | Appointment | Cessation |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

The principal executive officer of the society as at the date of this return is

Has the address of the registered office changed? *Yes/*No

If yes, specify new address
 and new telephone number

.....
(signature)

.....
(date)

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

To the Registrar of Co-operatives
154 Russell Street
BATHURST
NSW 2795

** Strike out words that are not applicable*

Form 2 Return of members of firm of auditors

(Clause 33 (2))

(Co-operative Housing and Starr-Bowkett Societies Act 1998, section 137 (5) (e))

Name of firm

Principal address of firm

Other addresses of firm

The full names and addresses of all of the members of the firm are:

| Surname | Given names | Residential address |
|---------|-------------|---------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

.....
*(signature)**

.....
(date)

** To be signed by one of the members of the firm*

Note. The completion of this form does not relieve members of the firm from any obligation under the law relating to business names.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

Form 3 Appointment of auditor

(Clause 33 (3))

(Co-operative Housing and Starr-Bowkett Societies Act 1998, section 138 (3))

Name of society
I,
being *a director/*the principal executive officer/*a secretary of the above society, give notice that the following person(s) or firm(s) *was/*were appointed as auditors of the society on (insert date).

Details of auditor(s)

Name

(surname) *(given names)*

(OR) if a firm, business name
Office, level, building name
Street number and name
Suburb/city and postcode
Postal address
.....
Telephone number
Name

(surname) *(given names)*

(OR) if a firm, business name
Office, level, building name
Street number and name
Suburb/city and postcode
Postal address
.....
Telephone number

.....
(signature)
.....
(date)

* Strike out words that are not applicable

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

Form 4 Resignation, retirement or withdrawal of auditor

(Clause 33 (4))

(Co-operative Housing and Starr-Bowkett Societies Act 1998, section 140 (12))

Name of society

I,
being *a director/*the principal executive officer/*a secretary of the above society, give notice that the following person(s) or firm(s) ceased to be auditors of the society for the reason(s) indicated below.

Details of auditors

Name

(surname)

(given names)

(OR) if a firm, business name

Office, level, building name

Street number and name

Suburb/city and postcode

Name

(surname)

(given names)

(OR) if a firm, business name

Office, level, building name

Street number and name

Suburb/city and postcode

Details of resignation, retirement or withdrawal

Notice was received of the resignation of the auditor (s)

Date of receipt of notice of resignation

The auditor, being a person, has retired or withdrawn from the firm of auditors

Date of retirement or withdrawal

.....
(signature)

.....
(date)

* Strike out words that are not applicable

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

Form 5 Annual return—Starr-Bowkett Society

(Clause 25)

(Co-operative Housing and Starr-Bowkett Societies Act 1998, section 148)

(This return, with a copy of the auditor's report, is required to be sent to the Registrar of Co-operatives within 3 months after the close of the financial year.)

Name of society

.....

Registered office

.....

Date

(Secretary's signature)

Annual return for the year ended

| | Number of: | | | Share Capital | | Forfeited shares | Advances |
|----------------------------|------------|--------|---------------------|---------------|---------|------------------|----------|
| | Members | Shares | Shares Appropriated | Issued | Paid-Up | | |
| | | | | \$ | \$ | \$ | \$ |
| Balance as per last return | | | | | | | |
| Additions for year | | | | | | | |
| Total | | | | | | | |
| <i>Less</i> | | | | | | | |
| Reduction and Withdrawals | | | | | | | |
| Forfeitures | | | | | | | |
| Repayments | | | | | | | |
| Balance at close of year | | | | | | | |
| Total | | | | | | | |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

Particulars of advances made during year

| | | Purpose of advance | | | |
|--------------------|--------|-------------------------------------|---------------------------------------|--------------------|-------|
| | | To purchase newly constructed homes | To purchase previously occupied homes | For other purposes | Total |
| Under \$1,000 | Number | | | | |
| | Amount | | | | |
| \$1,001 to \$2,000 | Number | | | | |
| | Amount | | | | |
| \$2,001 to \$4,000 | Number | | | | |
| | Amount | | | | |
| \$4,001 to \$6,000 | Number | | | | |
| | Amount | | | | |
| Over \$6,000 | Number | | | | |
| | Amount | | | | |
| Total | Number | | | | |
| | Amount | | | | |

State usual rate of interest charged on "Sale" loans

Income Statement for year ended.....

(final day of financial year)

Part 1 Management Account

| | | | |
|------------------------------------|----|-----------------------------|----|
| | \$ | | \$ |
| Salaries | | Working expenses on: | |
| Long service leave provision | | shares at | |
| | | each | |
| Superannuation | | Charge on withdrawals | |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

| | | | |
|--|----|---|----|
| | \$ | | \$ |
| Fees: | | Sales of subscription books and rules | |
| Directors | | | |
| Auditors | | Entrance fees | |
| Rent | | Transfer fees | |
| Printing and stationery | | Insurance commission | |
| Advertising | | Other management income (<i>specify</i>): | |
| Depreciation | | | |
| Income tax | | | |
| Other charges (<i>specify</i>): | | | |
| | | | |
| | | | |
| Surplus for year on management account | | Deficiency for year on management account | |
| | | | |

Part 2 Interest Account

| | | | |
|--------------------------------------|----|---|----|
| | \$ | | \$ |
| Interest paid | | Premiums collected for period or interest charged | |
| Other charges (<i>specify</i>): | | Fines | |
| | | Interest received from Bank | |
| | | Other income (<i>specify</i>): | |
| Surplus for year on interest account | | Deficiency for year on interest account | |
| | | | |

Balance Sheet as at.....
(final day of financial year)

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

| Liabilities | \$ | Assets | \$ |
|--|-----------|--|-----------|
| Share Capital: Shares at | | Appropriations: Ballot | |
| Subscriptions paid-up | | Sale | |
| Subscriptions on shares forfeited | | Sub-total | |
| Income Statement—Surplus | | | |
| Deficiency B/F* | | Less Sums to be advanced | |
| Surplus for year—management account | | | |
| Deficiency* | | Total sum advanced— | |
| Sub-total | | comprising: | |
| Surplus for year—interest account | | Advances (secured by mortgage) | |
| Deficiency* | | \$ | |
| Accumulated surplus as at | | Advances (not yet secured by mortgage) | |
| Deficiency* | | | |
| Total | | | |
| Overdraft at | | Less Repayments | |
| Bank (secured by) | | | |
| Sundry creditors | | Sub-total | |
| Expenses accrued | | Amount outstanding on loan to members | |
| Other liabilities (<i>specify</i>) | | | |
| Sub-total | | | |
| Total liabilities | | | |
| * <i>If deficiency indicate thus (—)</i> | | Due from members for working expenses | |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

| Liabilities | \$ | Assets | \$ |
|---|-----------|-------------------------------------|-----------|
| Bank reconciliation statement | | | |
| Balance* per bank cert. as at | | Sundry debtors | |
| Unpresented cheques | | Office furniture and fittings | |
| Sub-total | | Sub-total | |
| | | Cash in hand | |
| | | Cash at Bank | |
| Deposits in transit banked on | | | |
| Other adjustments (<i>specify</i>): | | Other assets (<i>specify</i>): | |
| | | | |
| | | | |
| Balance per cash book | | Sub-total | |
| * <i>If overdrawn indicate thus (—)</i> | | Total assets | |

Form 6 Annual return—Co-operative Housing Society

(Clause 25)

(Co-operative Housing and Starr-Bowkett Societies Act 1998, section 148)

(This return, with a copy of the auditor's report, is required to be sent to the Registrar of Co-operatives within 3 months after the close of the financial year.)

Name of society

Registered office

Date
(Secretary's signature)

Financial statements for the year ended

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

The following management account, interest account, Balance Sheet and notes are in agreement with the accounting records of the society.

.....
(Secretary's signature) *(Date)*

Representative who should be contacted if any queries arise regarding this return:

Name
 (Block letters)

Telephone (STD)

Name of society

Income Statement for the year ended.....
(final day of financial year)

Part 1 Management Account

| | Note | This year \$ | Last year \$ |
|---|------|-----------------|-----------------|
| Income | | | |
| Management fees | 2 | | |
| Insurance commission | | | |
| Other income | 3 | | |
| Total income | | | |
| Expenses | | | |
| Secretarial fees | 4 | | |
| Provisions for doubtful loans and other matters | 5 | | |
| Salaries | | | |
| Computer service fees | | | |
| Directors' fees | 6 | | |
| Audit fees | | | |
| Other expenses | 7 | | |
| Total expenses | | | |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

| | Note | This year \$ | Last year \$ |
|--|------|-----------------|-----------------|
| Surplus/(Deficit) before income tax | | | |
| less/(plus): income tax expense | | | |
| Surplus/(Deficit) transferred to Management reserve | 8 | | |

The Management Account is to be read in conjunction with the Balance Sheet and the Notes to and forming part of the financial statements

Name of society

Part 2 Interest Account

| | Note | This year \$ | Last year \$ |
|--|------|-----------------|-----------------|
| Income | | | |
| Interest on loans to members | | | |
| Other interest received | | | |
| Other | | | |
| Total income | | | |
| Expenses | | | |
| Interest on loans from | | | |
| Banks | | | |
| Other | | | |
| Total expenses | | | |
| Surplus/(Deficit) transferred to Interest reserve | 9 | | |

The Interest Account is to be read in conjunction with the Balance Sheet and the Notes to and forming part of the financial statements

Name of society

Balance Sheet as at.....

(final day of financial year)

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

| | Note | This year \$ | Last year \$ |
|--------------------------------------|------|-----------------|-----------------|
| Current assets | | | |
| Cash | | | |
| Receivables—loans to members | 10 | | |
| Investments | 11 | | |
| Other | 12 | | |
| Total current assets | | | |
| Non-current assets | | | |
| Receivables—loans to members | 10 | | |
| Investments | 11 | | |
| Property, plant and equipment | 13 | | |
| Other | 12 | | |
| Total non-current assets | | | |
| Total assets | | | |
| Current liabilities | | | |
| Creditors and borrowings | 14 | | |
| Provisions | 5 | | |
| Total current liabilities | | | |
| Non-current liabilities | | | |
| Creditors and borrowings | 14 | | |
| Provisions | 5 | | |
| Total non-current liabilities | | | |
| Total liabilities | | | |
| Net assets | | | |
| Members' funds | | | |
| Shares | 15 | | |
| Interest reserve | 9 | | |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

| | Note | This year \$ | Last year \$ |
|-----------------------------|------|-----------------|-----------------|
| Management reserve | 8 | | |
| Total members' funds | | | |

The Balance Sheet is to be read in conjunction with the Notes to and forming part of the financial statements

Name of society

Notes to and forming part of the financial statements for the year ended.....

.....
final day of financial year)

1 Statement of significant accounting policies

(Describe all material accounting policies which have been applied in the preparation and presentation of the financial statements.

Policies should include at least the following:

- (a) basis of accounting
- (b) investment policy
- (c) property, plant and equipment: depreciation and leasing policy
- (d) taxation status
- (e) employee entitlements (if any)
- (f) secretarial arrangement
- (g) loan security policy, such as:
indemnity or government guarantee
mortgage insurance
other
- (h) provisioning policy)

| | |
|------------------|------------------|
| This year | Last year |
| \$ | \$ |

2 Management fees

Direct lending

Agency lending

Total management fees

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

3 Other income

Service fees

Interest from investments

Other income

Total other income**4 Secretarial fees**

(Provide general details of any management contract the society has entered into under which a third party is to provide secretarial services, the names of the directors of the management contractor and include any significant terms and conditions.)

5 Provisions for doubtful loans and other matters**Current***(Details of provisions)***Non-Current***(Details of provisions)***Total Provisions**

(Specify details of provisions, such as doubtful debts (loans), long service leave, taxation etc.)

6 Directors' fees

Total fees received, or due and receivable, by all directors of the society

(Note. Directors' fees should be determined in accordance with Department of Housing guidelines and the society rules.)

7 Other expenses

Depreciation

Rent

Other expenses

Total other expenses

(Detail other operating expenses such as rent, depreciation etc, if the society is not covered by a management agreement.)

8 Management reserve

Undistributed surplus/(deficit) as at

(start of year)

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

11 Investments**Current***(Details of investments)***Non-current***(Details of investments)***Total investments****12 Other assets****Current***(Details of other current assets)***Non-current***(Details of other non-current assets)***Total other assets***(Specify break-up of sundry debtors, prepayments and other current and non-current assets.)***13 Property, plant and equipment**Land and buildings—at *(Specify basis of valuation: ie market or cost value)*

Accumulated depreciation

Plant and equipment—at cost

Accumulated depreciation

Total property, plant and equipment

14 Creditors and borrowings**Current**Loans—*(Details of lending institutions and amounts)*

Bank overdraft

Sundry creditors and accruals

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

Non-currentLoans—*(Details of lending institutions and amounts)***Total creditors and borrowings**

(Describe the security over borrowings from the lending institution:

Guarantee provided by the Treasurer of New South Wales under three party agreement

Equitable mortgage over the assets of the society

Other security)

15 Shares

Balance as at

(start of year)

Plus: allotment

Less: discharge

Balance as at

*(end of year)**(Give particulars of the kinds of shares—eg ordinary shares of \$1 each.)***16 Related parties**

(Give particulars of the relationship between the society and related parties (within the meaning of Australian Accounting Standard AAS 22 issued in May 1993 by the Australian Accounting Research Foundation) where transactions are with related parties, including:

the names and shareholdings of directors and other officers of the society who are involved

transactions between the society and director or director-related entities

transactions between the society and secretary or secretary-related entities

Refer to Australian Accounting Standard AAS 22 for required disclosure.)

17 Agency lending

| | Number of loans | This year \$ |
|--|--------------------|-----------------|
|--|--------------------|-----------------|

(Agency)

(Detail the agency, the balance of funds managed on behalf of each financier and the number of loans managed at the end of the financial period.)

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Forms

Schedule 1

18 Contingent liabilities

(Provide general details of any contingent liabilities for which the Society may be assessed as liable.)

Statement by directors

(A directors' statement made under section 133 of the *Co-operative Housing and Starr-Bowkett Societies Act 1998* should be included and form part of the Annual Return.)

Director's report

(A directors' report made under section 134 of the *Co-operative Housing and Starr-Bowkett Societies Act 1998* should be included and form part of the Annual Return.)

Auditor's report

(An auditor's report made under section 143 of the *Co-operative Housing and Starr-Bowkett Societies Act 1998* should be included and form part of the Annual Return.)

Form 7 List of directors

(Clause 25)

Name of society

I,

being secretary of the above society give notice that the following persons:

* (1) were elected as directors of the society at the meeting held on 20

or

* (2) are the directors of the society as at the date of this return.

| Mr Mrs Ms | Surname (and former surname) | Given names (in full) (and former given names) | Date and place of birth | Business occupations | Residential address | Date appointed |
|-----------------|---------------------------------------|---|----------------------------------|-------------------------|------------------------|-------------------|
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

Dated 20.....

.....
(Signature)

To: Registrar of Co-operatives
54 Russell St.
BATHURST
NSW 2795

* *Strike out words that are not applicable*

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 1 Forms

Form 8 Notice specifying certain declarations

(Clause 26)

Name of Society

I,
 being secretary of the above society, give notice that the declarations specified below were made to the board of directors of the Society under section 100 (11) of the *Co-operative Housing and Starr-Bowkett Societies Act 1998*, during the financial year which ended on 20..... .

| Surname of Director | Given names (in full) | Date of declaration | Contract or proposed contract referred to in declaration | Nature of interest | Whether contract entered into by society |
|---------------------|-----------------------|---------------------|--|--------------------|--|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Dated 20..... .

.....
(Signature)

Name of Principal Officer

The name of the person responsible under the board of directors for the daily management and control of operation of the society is:

Dated 20..... .

.....
(Secretary's signature)

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Fees

Schedule 2

Schedule 2 Fees

(Clause 27)

| Column 1 Item | Column 2 Section of 1998 Act | Column 3 Type of fee | Column 4 Amount |
|------------------|------------------------------------|---|---|
| 1 | 23 (1) (a) | Inspection of prescribed document | \$15 |
| 2 | 23 (1) (b) | Certified copy of prescribed document | \$16 and \$2 for each page after the first page |
| 3 | 25 | Application for extension or abridgement of time within which anything is required to be done under the 1998 Act | \$61 |
| 4 | 50 (1) | Application to Registrar for registration of proposed co-operative housing society or Starr-Bowkett society | \$180 |
| 5 | 67 | Registration of alteration of society's rules | \$13 per rule to a maximum of \$120 |
| 6 | 80 (2) | Application for issue of amended certificate of incorporation or new certificate resulting from change of name of co-operative housing body | \$31 |
| 7 | 80 (4) | Application for approval of use by co-operative housing body of name other than registered name | \$31 |
| 8 | 84 (3) | Application by person or body (other than co-operative housing body) for exemption to use words co-operative housing society or Starr-Bowkett , or other words, abbreviations or symbols with similar meaning | \$300 |
| | 88 | Application of the following sections of the Corporations Act in accordance with section 88 of the 1998 Act: | |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 2 Fees

| Column 1 | Column 2 | Column 3 | Column 4 |
|-----------------|----------------------------|---|-----------------|
| Item | Section of 1998 Act | Type of fee | Amount |
| 9 | | Section 263 (1): Lodgment of: | |
| | | (a) notice of charge | \$61 |
| | | (b) copy of resolution, where it is only evidence of charge | \$61 |
| | | (c) instrument, where charge was created or evidenced by the instrument | \$61 |
| 10 | | Section 264 (1): Lodgment of: | |
| | | (a) notice of acquisition of property subject to charge | \$61 |
| | | (b) copy of resolution, where it is only evidence of charge | \$61 |
| | | (c) instrument, where charge was created or evidenced by the instrument | \$61 |
| 11 | | Section 265 (5) (b): Application to Registrar for extension of time to lodge certificate to effect that all documents accompanying notice required under section 263 or 264 have been duly stamped | \$61 |
| 12 | | Section 268 (1): Lodgment of notice of assignment of charge | \$61 |
| 13 | | Section 268 (2): Lodgment of notice of variation of terms of charge | \$61 |
| 14 | | Section 269 (2): Lodgment of memorandum acknowledging satisfaction of, and release of property from, charges | \$61 |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Fees

Schedule 2

| Column 1 | Column 2 | Column 3 | Column 4 |
|-----------------|----------------------------|---|-----------------|
| Item | Section of 1998 Act | Type of fee | Amount |
| 15 | 115 (7) | Lodgment of special resolution for registration | \$13 |
| 16 | 117 (3) | Application for consent of Registrar for society to keep all or any registers at office other than registered office | \$31 |
| 17 | 148 (1) | Lodgment of returns: | |
| | | (a) on or before the due date | Nil |
| | | (b) more than 1 day but less than 28 days after the due date | \$89 |
| | | (c) 28 days or more after the due date | \$180 |
| 18 | 149 (1) | Application for order for relief from certain specified requirements as to accounts or audit | \$240 |
| 19 | 152 | Application for certification by Registrar that co-operative housing societies are of same type for purpose of proposed merger or transfer of engagements | \$61 |
| 20 | 153 (1) | Application for registration of merger of, or transfer of engagements by, co-operative housing societies | \$61 |
| 21 | 153 (2) | Application for determination by Registrar that co-operative housing societies' boards may approve of proposed merger or transfer of engagements | \$61 |
| 22 | 153 (3) | Application for approval by Registrar of statement to be sent to members specifying details of proposed merger or transfer of engagements | \$240 |
| 23 | 153 (5) | Application to Registrar seeking exemption from requirement to send statement under section 153 (3) of the 1998 Act | \$61 |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 2 Fees

| Column 1 Item | Column 2 Section of 1998 Act | Column 3 Type of fee | Column 4 Amount |
|------------------|------------------------------------|---|--------------------|
| | 173 | Application of the following sections of the Corporations Act in accordance with section 173 of the 1998 Act: | |
| 24 | | Section 411 (2) (a): Application to Registrar for permission for lesser period of notice of hearing of application under section 411 (1) or (1A) | \$61 |
| 25 | | Section 411 (2) (b): Examination by Registrar of terms of proposed compromise or arrangement to which application relates and draft explanatory statement relating to proposed compromise or arrangement | \$598 |
| 26 | | Section 411 (7): Application to Registrar for direction that section 411 (7) (f) does not apply in relation to appointment of person to administer compromise or arrangement | \$240 |
| 27 | | Section 413 (3): Lodgment of office copy of order made under section 413 Additional fee for late lodgment of copy of order | \$31 \$61 |
| | 174 | Application of the following sections of the Corporations Act in accordance with section 174 of the 1998 Act: | |
| 28 | | Section 418 (1): Application to Registrar for direction that section 418 (1) (f) does not apply in relation to appointment of person as receiver of property of corporation | \$240 |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Fees

Schedule 2

| Column 1 | Column 2 | Column 3 | Column 4 |
|-----------------|----------------------------|--|-----------------|
| Item | Section of 1998 Act | Type of fee | Amount |
| 29 | | Section 421A (2): Lodgment of managing controller's report about corporation's affairs: | |
| | | (a) on or before the due date | Nil |
| | | (b) more than 1 day but less than 28 days after the due date | \$89 |
| | | (c) 28 days or more after the due date | \$180 |
| 30 | | Section 421A (3) (b): Inspection of managing controller's report at Registrar's office | \$13 |
| 31 | | Section 427 (1) (a): Lodgment of notice of order of appointment of receiver | Nil |
| | | Additional fee for late lodgment | \$31 |
| 32 | | Section 427 (1A) (a): Lodgment of notice of appointment of controller of property of corporation | Nil |
| | | Additional fee for late lodgment | \$31 |
| 33 | | Section 427 (1B) (a): Lodgment of notice that controller has entered into possession or taken control | Nil |
| | | Additional fee for late lodgment | \$31 |
| 34 | | Section 427 (2): Lodgment of notice of address of controller | Nil |
| | | Additional fee for late lodgment | \$31 |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 2 Fees

| Column 1 | Column 2 | Column 3 | Column 4 |
|-----------------|----------------------------|--|-----------------|
| Item | Section of 1998 Act | Type of fee | Amount |
| 35 | | Section 427 (3): Lodgment of notice of change in situation of controller's office | Nil |
| | | Additional fee for late lodgment | \$31 |
| 36 | | Section 427 (4) (a): Lodgment of notice of cessation as controller | Nil |
| | | Additional fee for late lodgment | \$31 |
| 37 | | Section 429 (2) (c): Lodgment by controller of reporting officers' report about corporation's affairs and notice setting out comments (if any) by controller relating to report | Nil |
| | | Additional fee for late lodgment | \$31 |
| 38 | | Section 432 (1): Lodgment of controller's accounts: | |
| | | (a) on or before the due date | Nil |
| | | (b) more than 1 day but less than 28 days after the due date | \$89 |
| | | (c) 28 days or more after the due date | \$180 |
| 39 | 177 | Application to Registrar to exercise powers conferred by the provisions of the Corporations Act referred to in: | |
| | | (a) section 177 (2) (a) of the 1998 Act | \$32 |
| | | (b) section 177 (2) (b) of the 1998 Act | \$61 |
| 40 | 184 (1) | Application for registration of two or more bodies as an association | \$180 |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Fees

Schedule 2

| Column 1 | Column 2 | Column 3 | Column 4 |
|-----------------|----------------------------|---|-----------------|
| Item | Section of 1998 Act | Type of fee | Amount |
| 41 | | Lodgment of any other document under the 1998 Act | Nil |
| 42 | | Additional fee for late lodgment | \$31 |

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 3 Prescribed information relating to proposed compromise or arrangement

Schedule 3 Prescribed information relating to proposed compromise or arrangement

(Clause 15)

1 Definitions

In this Schedule:

internal creditor means a creditor who is:

- (a) a member of the society, or
- (b) a relative of a member, or
- (c) a relative of a spouse of a member.

marketable securities has the same meaning as it has in the Corporations Act.

relative has the same meaning as it has in the Corporations Act.

Scheme means the proposed compromise or arrangement.

scheme creditors means the creditors or class of creditors of a society to whom the Scheme would apply.

scheme members means the members or class of members of a society to whom the Scheme would apply.

2 Prescribed information relating to proposed compromise or arrangement with creditors or class of creditors

- (1) The prescribed information that must be included in a draft explanatory statement or explanatory statement (as the case may be) in relation to a proposed compromise or arrangement between a society and any of its creditors is:
 - (a) the expected dividend that would be available to scheme creditors if the society were to be wound up within 6 months after the date of the hearing of the application to the Court for an order under section 411 (1) of the Corporations Act, and
 - (b) if a composition of debts is proposed, the expected dividend that would be paid to scheme creditors if the Scheme were put into effect as proposed, and
 - (c) a list of the names of all known scheme creditors and the debts owed to those creditors, and
 - (d) if a scheme creditor is known to be an internal creditor, the name of the creditor and the amount of the debt owed.
- (2) The statement referred to in subclause (1) must contain a statement that an order under section 411 (1) of the Corporations Act is not an endorsement of, or any other expression of opinion on, the Scheme.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Prescribed information relating to proposed compromise or arrangement Schedule 3

-
- (3) The statement referred to in subclause (1) must contain or include:
- (a) a report on the affairs of the society in or to the effect of the form approved by the Registrar, showing the financial position of the society as at a day within one month of the date on which it is intended to apply to the Court for an order under section 411 (1) of the Corporations Act, and
 - (b) a copy, certified by a director or by the principal executive officer or a secretary of the society to be a true copy, of all accounts and group accounts (if any) required to be laid before the society at the annual general meeting, together with a copy of every document required by law to be annexed to the accounts, and
 - (c) if the society the subject of the Scheme is a trustee, a statement:
 - (i) of the number of trusts administered by the trustee, and
 - (ii) whether the trustee carries on any business separate from that of the trust, and
 - (iii) how the scheme creditors may obtain a copy of the relevant trust deed, free of charge, before the date of the meeting, and
 - (d) if the person (if any) who would be appointed to manage the Scheme proposes to charge for his or her services and for the services of his or her staff in accordance with a particular scale of charges, that scale of charges.

3 Prescribed information relating to proposed compromise or arrangement with members or a class of members

- (1) The prescribed information that must be included in a draft explanatory statement or explanatory statement (as the case may be) in relation to a proposed compromise or arrangement between a society and any of its members is:
- (a) unless the society the subject of the Scheme is in the course of being wound up or is under official management, in relation to each director of the society:
 - (i) whether the director recommends the acceptance of the Scheme or recommends against acceptance and, in either case, his or her reasons for so recommending, or
 - (ii) if the director is not available to consider the Scheme, that the director is not so available and the cause of his or her not being available, or
 - (iii) in any other case, that the director does not desire to make, or does not consider himself or herself justified in making, a recommendation and, if the director so requires, his or her reasons for not wishing to do so, or

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 3 Prescribed information relating to proposed compromise or arrangement

-
- (b) if the society is in the course of being wound up or is under official management, in relation to each liquidator or each official manager:
- (i) whether he or she recommends acceptance of the Scheme or recommends against acceptance and, in either case his or her reasons for so recommending, or
 - (ii) in any other case, that the liquidator or official manager does not wish to make a recommendation and his or her reasons for not wishing to do so.
- (2) The statement referred to in subclause (1) must set out:
- (a) the number, description and amount of marketable securities of the society the subject of the Scheme held by or on behalf of each director of the society or, if none are held by or on behalf of a director, a statement to that effect, and
 - (b) for each director of the society by whom or on whose behalf shares in that society are held, whether:
 - (i) the director intends to vote in favour of, or against, the Scheme, or
 - (ii) the director has not decided whether he or she will vote in favour of, or against, the Scheme, and
 - (c) particulars of any payment or other benefit that is proposed to:
 - (i) be made or given to any director, secretary or executive officer of the society the subject of the Scheme as compensation for loss of, or as consideration for or in connection with his or her retirement from, office in that society or in a related body corporate, or
 - (ii) be made or given to any director, secretary or executive officer of any related body corporate as compensation for the loss of, or as consideration for or in connection with his or her retirement from, office in that body corporate or in the society the subject of the Scheme, and
 - (d) if there is any other agreement or arrangement made between a director of the society the subject of the Scheme and another person in connection with or conditional on the outcome of the Scheme, particulars of the agreement or arrangement, and
 - (e) if the object of the Scheme is for a corporation to acquire control of a society, particulars of the nature and extent of any interest of a director of that society in any contract entered into by the corporation seeking control, and
 - (f) all the information that the society the subject of the Scheme has as to the number of any shares of the society that have been allotted or transferred in the 6 months immediately preceding the

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Prescribed information relating to proposed compromise or arrangement Schedule 3

-
- date on which the statement is lodged with the Registrar for registration and the amount of those shares and prices at which they were allotted or transferred, and
- (g) whether, within the knowledge of the directors of the society the subject of the Scheme or, if the society is in liquidation or under official management, the knowledge of the liquidator or the official manager, the financial position of the society has materially changed since the date of the last Balance Sheet laid before the society in general meeting and, if so, full particulars of any change, and
 - (h) any other information material to the making of a decision in relation to the Scheme, being information that is within the knowledge of any director, liquidator or official manager of a society the subject of the Scheme or of a related body corporate and that has not previously been disclosed to the scheme members.
- (3) The statement referred to in subclause (1) must set out particulars of the intentions of the directors of the society the subject of the Scheme regarding:
- (a) the continuation of the business of the society or, if the undertaking, or any part of the undertaking, or the society is to be transferred, how that undertaking or part is to be conducted in the future, and
 - (b) any major changes to be made to the business of the society, including any redeployment of the fixed assets of the society, and
 - (c) the future employment of the present employees of the society.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 4 Postal ballots

Schedule 4 Postal ballots

(Clause 31)

1 Ballots

- (1) The society must:
 - (a) fix the dates for:
 - (i) the forwarding of ballots to members, and
 - (ii) the closing of the ballot, and
 - (b) appoint a returning officer for the ballot.
- (2) Every ballot must be conducted by the returning officer appointed by the society.

Note. Section 153 (3) of the Act requires a society to send to each member a statement approved by the Registrar specifying a number of matters relevant to the proposed merger or transfer of engagements. That statement may be sent to members with the ballot papers.

2 Returning officers

- (1) A director of the society may not be appointed as a returning officer.
- (2) The returning officer may be assisted in the performance of his or her duties by any person (who would be eligible to be a returning officer) appointed by the returning officer.

3 Preparation of voting roll

- (1) Subject to this clause, the returning officer must prepare a roll of the full names and addresses of the members of the society, as disclosed by the register of members.
- (2) The roll must not include any member who is a minor.
- (3) In the case of joint members, only the name of the primary joint member (as referred to in section 73 of the Act) is to be included on the roll.
- (4) A person whose name is on the roll is entitled to one vote in the ballot, and no person is otherwise so entitled.

4 Preparation of ballot papers

- (1) The returning officer must cause ballot papers to be prepared in or to the effect of Form A in this Schedule.
- (2) Each ballot paper must be initialled by the returning officer or an appointed assistant.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Postal ballots

Schedule 4

-
- (3) The returning officer must send by post or otherwise deliver to every member entitled to vote in the ballot one set of the following material so that it will, in the ordinary course of post, reach the member at least 21 days before the date fixed for the closing of the ballot:
- (a) one ballot paper,
 - (b) an envelope (in this Schedule referred to as *the outer envelope*) addressed to the returning officer,
 - (c) a smaller envelope (in this Schedule referred to as *the middle envelope*), the reverse side of which must be printed in or to the effect of Form B in this Schedule,
 - (d) a small envelope (in this Schedule referred to as *the inner envelope*) in which the ballot paper is to be enclosed.

5 Duplicate ballot papers

The returning officer may send a duplicate ballot paper to any voter if the returning officer is satisfied:

- (a) that the voter has not received a ballot paper, or
- (b) that the ballot paper received by the voter has been lost, spoiled or destroyed and that the voter has not already voted.

6 Voting

A member casts a vote in the ballot by:

- (a) completing the details on the reverse side of the middle envelope, and
- (b) marking his or her vote on the ballot paper according to the instructions on the ballot paper, and
- (c) sending the ballot paper, in the envelopes provided, to the returning officer.

7 Safe keeping of ballot papers

- (1) The returning officer must provide a ballot box that must be locked immediately before the ballot papers are delivered to members in accordance with clause 4 and must remain locked until the close of the ballot.
- (2) The returning officer must place the outer envelopes in the ballot box not later than noon on the date fixed for the closing of the ballot.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 4 Postal ballots

8 Counting of the votes

- (1) Ballot papers received after noon on the date fixed for the closing of the ballot must not be taken into account at the ballot.
- (2) As soon as practicable after noon on the date fixed for the closing of the ballot, the returning officer must, in the presence of such scrutineers as may be appointed by the society, open the ballot box and deal with the contents in accordance with subclause (3).
- (3) The returning officer must:
 - (a) remove the middle envelope from the outer envelope, and
 - (b) if a duplicate outer envelope has been issued and the original outer envelope is received, reject the original envelope and mark it "rejected", and
 - (c) according to the information on the middle envelope, for each set of voting papers returned, mark the voter's name on the roll by drawing a line through the name, and
 - (d) if a member's name has already been crossed out on the roll, reject the postal vote and mark it "rejected", and
 - (e) if the middle envelope has not been signed, or if the details shown on the envelope are not sufficient to disclose by whom the vote is being exercised, reject the envelope and mark it "rejected", and
 - (f) extract the inner envelopes containing the ballot papers from all unrejected middle envelopes, separating the contents from the middle envelopes in such a way that no inner envelope could subsequently be identified with any particular voter, and
 - (g) when all the middle envelopes have been dealt with in the above manner, open all unrejected inner envelopes and take the ballot papers from them.
- (4) The ballot papers must be scrutinised by the returning officer who must reject as informal any ballot paper that:
 - (a) is not duly initialled by the returning officer or appointed assistant, or
 - (b) is so imperfectly marked that the intention of the voter cannot be ascertained by the returning officer, or
 - (c) has any mark or writing not authorised by this Schedule that, in the opinion of the returning officer, will enable the voter to be identified, or
 - (d) has not been marked as prescribed on the ballot paper itself.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Postal ballots

Schedule 4

9 Statement by returning officer

- (1) The returning officer must count all votes cast and make out and sign a statement of:
 - (a) the number of formal votes cast in favour of the proposal, and
 - (b) the number of formal votes cast against the proposal, and
 - (c) the number of informal votes cast, and
 - (d) the number of middle envelopes marked “rejected”, and
 - (e) the proportion of the formal votes cast in favour of the proposal.
- (2) As soon as practicable after signing the statement, the returning officer must declare the result of the ballot to the society and give the statement to the society.
- (3) If two-thirds of the members who were entitled to vote in the ballot voted in favour of the proposal, the special resolution is taken to be passed on the day that the returning officer declares the result of the ballot.
- (4) On the declaration of the returning officer of the result of the postal ballot, the society must cause an entry to be made in the minutes kept under section 116 of the Act showing the particulars referred to in subclause (1) (a)–(c) and noting whether the special resolution was passed.
- (5) The society must cause the result of the ballot to be notified in writing to its members as soon as practicable after the returning officer has declared the result.

10 Retention of ballot papers

- (1) The returning officer must retain:
 - (a) all ballot papers (whether formal or otherwise), and
 - (b) all rejected outer envelopes, and
 - (c) all rolls,used in connection with the conduct of the postal ballot, locked in the ballot box, in accordance with this clause.
- (2) The returning officer must retain those items for a period of not less than 8 weeks after the date fixed for the closing of the ballot unless directed in writing by the society to retain those items for a longer period specified in the society’s direction.

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 4 Postal ballots

Form A Postal ballot paper

(Co-operative Housing and Starr-Bowkett Societies Regulation 2000, Schedule 4, clause 4 (1))

Note. Before completing this ballot paper, please read the "How to vote" section below.

Name of Society:

Ballot of members to vote on a special resolution to approve the following proposal:

.....
.....
.....

Do you support the above proposal? (Please write YES or NO in the box)



The ballot will close at noon on

How to vote

- 1 Read these directions and the ballot paper carefully.
- 2 Complete and sign the details on the reverse side of the envelope that has appropriate spaces for the insertion of your name, address and signature (in this paper referred to as *the middle envelope*).
- 3 If:
 - (a) you are in favour of the proposal—write the word "YES" in the box provided above, or
 - (b) you are not in favour of the proposal—write the word "NO" in the box provided above.
- 4 After marking the ballot paper, fold it and place it in the small envelope provided and seal the envelope. Then place the small envelope in the completed middle envelope and place the middle envelope in the envelope addressed to the returning officer. Forward this envelope either by post or personal delivery so as to reach the returning officer not later than noon on

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Postal ballots

Schedule 4

5 Unless the ballot paper is marked as indicated in 3 above and the details referred to in 2 above are completed in full and the middle envelope signed, your vote may be rejected as informal.

.....
(Initials of returning officer)

Form B Middle envelope (member details)

(Co-operative Housing and Starr-Bowkett Societies Regulation 2005, Schedule 4, clause 4 (3) (c))

Note. Please use capital letters for your name and address.

.....
(Full name of member)

.....
(Address of member)

.....
(Full name of person casting vote if vote is being cast on behalf of a body corporate that is a member)

.....
(Address of person casting vote if vote is being cast on behalf of a body corporate that is a member)

.....
(Signature of person casting vote)



New South Wales

Coroners Regulation 2005

under the

Coroners Act 1980

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Coroners Act 1980*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to remake, with minor changes, the provisions of the *Coroners Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) prescribes matters relating to the composition and summoning of juries for inquests into deaths caused by accident or explosion in mines at Broken Hill, and
- (b) enables the Director-General of the Department of Health to appoint Coronial Medical Officers for the purposes of the *Coroners Act 1980*, and
- (c) prescribes the fees payable to medical practitioners conducting post mortem examinations for the purposes of the *Coroners Act 1980*.

This Regulation is made under the *Coroners Act 1980*, including sections 18 (3), 47A, 52 and 58 (the general regulation-making power).

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

Coroners Regulation 2005

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Coroners Regulation 2005

Clause 1

Coroners Regulation 2005

under the

Coroners Act 1980

1 Name of Regulation

This Regulation is the *Coroners Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Coroners Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

normal working hours means the period between 9 am and 6 pm on any day that is not a Saturday, Sunday or public holiday.

the Act means the *Coroners Act 1980*.

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

4 Composition of juries for inquests concerning mining accidents at Broken Hill: section 18

(1) For the purposes of section 18 (3) of the Act, the persons summoned for jury service at an inquest concerning a death or suspected death caused (or suspected by the coroner of having been caused) by an explosion or accident in or about a mine situated wholly or partly in the Broken Hill Jury District are to be summoned for jury service by the coroner.

(2) The persons to be summoned for jury service:

(a) are to be selected randomly from the persons who are qualified and liable to serve as jurors within the Broken Hill Jury District, and

(b) must include at least 3 persons who are not employed in, or in the management of, a mine.

Clause 4 Coroners Regulation 2005

- (3) The coroner may direct that jury summonses be issued at any time after the death, suspected death, explosion or accident has been reported to the coroner and before the commencement of an inquest.
- (4) If the coroner considers that it is necessary in the interests of justice that the jury view a location as soon as practicable after the death, suspected death, explosion or accident has occurred, the coroner may direct a police officer to serve summonses upon prospective jurors immediately.
- (5) The number of summonses issued to prospective jurors must be not less than the number that, in the opinion of the coroner, will ensure the attendance of 6 jurors at the inquest.
- (6) Any person summoned to serve on the jury must notify the coroner if the person is employed in, or involved in the management of, a mine.
- (7) The final jury must include at least 3 persons who are not employed in, or involved in the management of, a mine.
- (8) The coroner may, on good cause being shown, excuse a person from attending an inquest in pursuance of a summons.
- (9) If more than 6 prospective jurors are summoned, the jury for the inquest is to be selected by ballot, being a process in which the coroner, or a person appointed by the coroner:
 - (a) places in a box provided for that purpose separate cards, each card being as nearly as is practicable of equal size, containing the identification numbers of the persons liable to serve as jurors, and
 - (b) draws out of that box those cards, one after another, and calls out the identification numbers on those cards, until 6 persons appear.
- (10) If during the ballot a person is called who, if selected to serve in the jury, would be the fourth juror who is employed in, or involved in the management of, a mine, that person is disqualified from serving and another juror is to be selected by ballot.
- (11) A person who is summoned for jury service in accordance with this clause must not, without lawful excuse, fail to comply with the summons.

Maximum penalty: 5 penalty units.

Note. Clause 2 (g) of Schedule 1 to the Act provides that any person having a personal interest in, or employed in, or in the management of, a mine in which an explosion or accident has occurred must, if summoned to serve on the jury at the inquest, notify the sheriff of that fact and is not qualified or liable to serve on that jury.

Coroners Regulation 2005

Clause 5

5 Coronial Medical Officers: section 47A

The Director-General of the Department of Health may appoint such medical practitioners as the Director-General is satisfied are suitably qualified to be Coronial Medical Officers for the purposes of the Act.

6 Fees payable to medical practitioners and odontologists: section 52

For the purposes of section 52 of the Act, the fees payable to a medical practitioner or an odontologist who performs a service in accordance with an order or request referred to in that section are as set out in Schedule 1.

7 Savings

Any act, matter or thing that, immediately before the repeal of the *Coroners Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.

Coroners Regulation 2005

Schedule 1 Fees payable to medical practitioners and odontologists

Schedule 1 Fees payable to medical practitioners and odontologists

(Clause 6)

| Service performed | Fee |
|--|------------|
| 1 For carrying out, and preparing a report on, an external examination of a dead person's body by a medical practitioner, or a dental examination of a dead person by an odontologist: | |
| (a) during normal working hours | \$53.60 |
| (b) outside normal working hours | \$69.70 |
| 2 For carrying out, and preparing a report on, an internal examination of a dead person's body by a medical practitioner | \$500.00 |
| 3 For travelling to and from, and attending and giving evidence at, a place at which an inquest is being held with respect to an examination referred to in item 1 or 2: | |
| (a) for the first 2 hours or part of 2 hours | \$177.90 |
| (b) for each subsequent half hour or part of a half hour | \$26.80 |
| (c) the maximum amount payable under paragraphs (a) and (b) for any one day | \$547.40 |
| 4 For using a private motor vehicle for the purpose of travelling to a place to carry out an examination referred to in item 1 or 2, or to give evidence at an inquest with respect to the examination, for each kilometre travelled to that place | \$0.97 |
| 5 In addition to any such specified amount, the fee is to include the amount of any GST that is payable in respect of the service concerned. | |
| 6 Item 5 does not permit the payment of an amount that is greater than: | |
| (a) 10% of the amount of the fee payable (apart from that item), or | |
| (b) the amount permitted under the New Tax System Price Exploitation law, | |
| whichever is the lesser. | |

Coroners Regulation 2005

Fees payable to medical practitioners and odontologists

Schedule 1

| Service performed | Fee |
|--|------------|
| <p>7 In items 5 and 6: GST has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> of the Commonwealth. New Tax System Price Exploitation law means:</p> <p>(a) the <i>New Tax System Price Exploitation Code</i>, as applied as a law of New South Wales by the <i>Price Exploitation Code (New South Wales) Act 1999</i>, or</p> <p>(b) Part VB of the <i>Trade Practices Act 1974</i> of the Commonwealth.</p> | |



New South Wales

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

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 objects of this Regulation are:

- (a) to declare a community conference intervention program (the *program*) to be an intervention program for the purposes of Part 4 of Chapter 7 of the *Criminal Procedure Act 1986*, and
- (b) to exclude certain personal violence offences and other specified offences from the offences in relation to which the program may be conducted, and
- (c) to regulate entry into, and the conduct of, the program.

The program is modelled, in part, on the scheme for youth justice conferences under the *Young Offenders Act 1997*. The program will enable young adult offenders who have pleaded guilty to, or been found guilty of, particular offences before certain Local Courts to be referred to participate in conferences for the purposes of developing intervention plans for the offenders. Referral to the program will be an additional option available to a participating Local Court for dealing with a young adult offender where the Court considers that it is likely that the offender will be required to serve a sentence of imprisonment.

Any victim of the offender or any such victim's chosen representative will be entitled to attend a conference, along with the informant for the offence and support persons for the offender or any victims. Other persons, such as a member of the offender's family and (if the offender is subject to a supervised good behaviour bond, a community service order or parole) the offender's supervising officer, may be invited to attend a conference.

This Regulation is made under the *Criminal Procedure Act 1986*, including section 4 (the general regulation-making power) and sections 347 and 348 (2) (g).

Clause 1 Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

under the

Criminal Procedure Act 1986

1 Name of Regulation

This Regulation is the *Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005*.

2 Amendment of Criminal Procedure Regulation 2005

The *Criminal Procedure Regulation 2005* is amended as set out in Schedule 1.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] Clause 19A

Insert after clause 19:

19A Community conference intervention program

- (1) Schedule 5 has effect for the purposes of Part 4 of Chapter 7 of the Act.
- (2) For the purposes of section 347 of the Act, the program of measures described in Part 4 of Schedule 5 for dealing with offenders is declared to be an intervention program for the purposes of Part 4 of Chapter 7 of the Act.
- (3) An offence that is a domestic violence offence, within the meaning of the *Crimes Act 1900*, is prescribed for the purposes of section 348 (2) of the Act in relation to that intervention program.

[2] Schedule 5

Insert after Schedule 4:

Schedule 5 Community conference intervention program

(Clause 19A)

Part 1 Interpretation

1 Definitions

In this Schedule:

conference means a conference convened or proposed to be convened under Division 2 of Part 4.

conference facilitator means a person appointed as a conference facilitator under Part 5.

conference participation order means:

- (a) a grant of bail that is subject to a condition referred to in section 36A (2) (b) (i) of the *Bail Act 1978*, or
- (b) an order referred to in section 11 (1) (b2) of the *Crimes (Sentencing Procedure) Act 1999*,

made in respect of an offender for the purpose of allowing the offender to participate in the program by attending a conference.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Schedule 1 Amendments

draft intervention plan means a draft intervention plan prepared under clause 20.

guidelines means guidelines issued by the Minister under Part 6.

intervention plan means an intervention plan arising out of the program that is the subject of an intervention plan order.

intervention plan order means any of the following orders of a participating court for the purposes of allowing a person to participate in the program by completing an intervention plan:

- (a) a grant of bail that is subject to a condition referred to in section 36A (2) (b) (i) of the *Bail Act 1978*,
- (b) an order referred to in section 10 (1) (c) of the *Crimes (Sentencing Procedure) Act 1999*,
- (c) an order referred to in section 11 (1) (b2) of the *Crimes (Sentencing Procedure) Act 1999*,
- (d) an order providing for an offender to enter into a good behaviour bond that contains a condition referred to in section 95A (1) of the *Crimes (Sentencing Procedure) Act 1999*.

offender means a person who has been found guilty of an offence before a participating court where that offence is an offence in respect of which an intervention program may be conducted as provided by section 348 of the Act.

participating court means any Local Court declared by the Minister to be a participating court for the program by order published in the Gazette.

program means the program of measures described in Part 4.

program administrator for a participating court means a person appointed as a program administrator for the court under Part 5.

referred offender means an offender who is the subject of a conference participation order or an intervention plan order.

suitability assessment order means:

- (a) a grant of bail that is subject to a condition referred to in section 36A (2) (a) of the *Bail Act 1978*, or
- (b) an order referred to in section 11 (1) (b1) of the *Crimes (Sentencing Procedure) Act 1999*,

made in respect of an offender for the purpose of allowing an assessment of the offender's capacity and prospects for participation in the program to be made.

victim has the same meaning as **victim of crime** has for the purposes of the *Victims Rights Act 1996*.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Amendments

Schedule 1

Part 2 Overview of process

2 Summary of process involved in entry into and participation in program

- (1) The following is a summary of the process involved in referring an offender for participation in the program:

(a) **Suitability assessment order made**

A participating court makes a suitability assessment order and the offender enters into an agreement to be subjected to an assessment of the offender's capacity and prospects for participation in the program.

(b) **Program administrator ensures that assessment is carried out**

The program administrator ensures that an assessment is carried out of the offender's capacity and prospects for participation in the program.

(c) **Participating court determines whether conference participation order should be made**

If the offender has been assessed as not being suitable for participation in the program, the offender will not be eligible to participate in the program. However, if the offender has been assessed as being suitable for participation in the program, the participating court may make a conference participation order if it is satisfied that the offender is otherwise eligible for participation in the program, having regard to the matters set out in clause 7.

(d) **Offender enters into agreement to participate**

The offender enters into an agreement to participate in the program.

(e) **Conference held and draft intervention plan for offender prepared**

A conference is held. Participants are encouraged to agree to appropriate recommendations about the offender. A draft intervention plan is prepared that is based on any recommendations made, and agreed to, by participants in the conference.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Schedule 1 Amendments

(f) **Participating court considers draft intervention plan**

Any draft intervention plan arising from the conference is referred to the participating court together with a report on the conference that is prepared by the conference facilitator. If the court approves the draft intervention plan, it makes an intervention plan order.

(g) **Offender to comply with intervention plan**

An offender who is subject to any such order must comply with the intervention plan. The program administrator for the participating court supervises the implementation and completion of the intervention plan. The program administrator notifies the court as to whether the plan is satisfactorily completed.

(h) **Effect of failure to comply with intervention plan**

A failure to satisfactorily complete the intervention plan may result in the offender being returned to the court for the court to deal with the offender.

- (2) This clause does not affect the meaning or interpretation of any provision of this Schedule that it summarises.

Part 3 Assessment of offender's capacity and prospects for participation in the program

3 Notification of suitability assessment order

A participating court that makes a suitability assessment order in respect of an offender must, within 7 days after making the order, notify the program administrator for the court that it has done so.

4 Assessment to be carried out

- (1) As soon as practicable after being notified under clause 3, the program administrator must ensure that an assessment is carried out of the offender's capacity and prospects for participation in the program.
- (2) The assessment must be carried out in accordance with the guidelines.
- (3) The program administrator must report to the participating court that made the suitability assessment order in the form approved by the Minister at least 2 days before the date on which the court is due to continue the proceedings in respect of which the offender was referred.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Amendments

Schedule 1

Part 4 The community conference intervention program

Division 1 Preliminary

5 Objectives of the program

The objectives of the program are as follows:

- (a) to provide for the greater participation in the justice process of offenders and victims and the families and support persons of offenders and victims,
- (b) to increase offenders' awareness of the consequences of their offences for their victims and the community,
- (c) to promote the reintegration of offenders into the community,
- (d) to increase the satisfaction of victims with the justice process,
- (e) to increase the confidence of the community in the justice process,
- (f) to provide a participating court with an additional sentencing option.

6 Principles to guide the program (cf s 34 Young Offenders Act 1997)

The principles that are to guide the operation of the program, including persons exercising functions under the program, are as follows:

- (a) the program should enhance the rights and place of victims in the justice process and have due regard to their interests,
- (b) conferences should be conducted in a way that promotes the active participation and empowerment of referred offenders and their victims, and the families and support persons of those offenders and victims, in responding to and resolving crime,
- (c) conferences should be conducted in a way that respects and takes into account the rights, needs, capacities, gender, sexuality and cultural and linguistic diversity of all participants, including the Aboriginality of any participants and any disability that any participants have,
- (d) conferences should be conducted in a way that assists referred offenders to understand and take responsibility for the offences they have committed,

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Schedule 1 Amendments

- (e) an intervention plan should recognise the harm done, as a consequence of the offending behaviour of the referred offender to whom the plan applies, to any victims of that offender and the community,
- (f) an intervention plan should take account of the rights, needs, capacities, gender, sexuality, culture of, and language spoken by, the referred offender to whom the plan applies, including (if applicable) the Aboriginality of that offender,
- (g) if a referred offender has a disability, an intervention plan that applies to that offender should take account of any needs arising from that disability, especially needs arising from any communication or cognitive difficulties that the offender has.

7 Eligibility to participate in program

- (1) A person is eligible to be referred by a participating court to participate in a conference only if:
 - (a) the person is at least 18 years, and under 25 years, of age at the time that the offence was committed, and
 - (b) the person is an offender, and
 - (c) the court considers that the facts, as found by the court, or as pleaded to by the defendant, in connection with the offence, together with the person's antecedents and any other information available to the court, indicate that it is likely that the person will be required to serve a sentence of imprisonment, and
 - (d) at the date on which the court proposes to make the referral, the person has not been convicted of any of the following offences:
 - (i) murder or manslaughter,
 - (ii) a category 1 personal violence offence,
 - (iii) two or more category 2 personal violence offences (whether or not the same offence),
 - (iv) a relevant drug offence,
 - (v) a serious firearms or weapons offence, and
 - (e) the person has been assessed as suitable for participation in the program in accordance with Part 3, and
 - (f) the court considers that, if it refers the person to participate in the program, it is likely that the person will enter into an agreement to participate in the program.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Amendments

Schedule 1

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- (2) A reference in subclause (1) (d) to a conviction for an offence does not include a reference to a conviction for:
- (a) the particular offence in respect of which a referral is proposed to be made, or
 - (b) an offence committed by the person when the person was under 18 years of age, other than an offence that is a serious children's indictable offence within the meaning of the *Children (Criminal Proceedings) Act 1987*.
- (3) In this clause:
- category 1 personal violence offence** means:
- (a) an offence under section 26, 27, 28, 29, 30, 31, 33, 61J, 61JA, 61K, 66A, 66B, 86, 95, 96, 97 or 98 of the *Crimes Act 1900*, or
 - (b) an offence committed before the commencement of this Regulation under a law of New South Wales that constituted an offence of a similar nature to an offence referred to in paragraph (a).
- category 2 personal violence offence** means any of the following offences:
- (a) an offence under section 33A, 35 (2), 37, 38, 39, 46, 47, 48, 61I, 61M, 66C, 66EA, 66F, 73, 80A, 87, 91, 103, 110, 195 (b), 196 (b) or 198 of the *Crimes Act 1900*,
 - (b) an offence under section 79, 106, 107, 109, 111, 112 or 113 of the *Crimes Act 1900* if the circumstances of the offence involve an act of actual or threatened violence against a person,
 - (c) an offence committed before the commencement of this Regulation under a law of New South Wales that constituted an offence of a similar nature to an offence referred to in paragraph (a) or (b).
- relevant drug offence** means any of the following offences:
- (a) an offence under section 23 (1), 24 (1) or 25 (1) of the *Drug Misuse and Trafficking Act 1985* (but only if the plant or drug concerned was found to be of a quantity that was at least twice the indictable quantity applicable under that Act at the date of the offence),
 - (b) an offence under section 23 (2), 24 (2), 25 (2) or 25A of that Act,
 - (c) an offence under section 26 of that Act of conspiring to commit an offence referred to in paragraph (a) or (b),

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Schedule 1 Amendments

- (d) an offence under section 27 of that Act of aiding, abetting, counselling, procuring, soliciting or inciting the commission of an offence referred to in paragraph (a) or (b).

sentence of imprisonment means any sentence of imprisonment, including a sentence the subject of a periodic detention order or home detention order under the *Crimes (Sentencing Procedure) Act 1999*.

serious firearms or weapons offence means any of the following offences:

- (a) an offence under section 93G, 93GA, 93H (2), 93I (2) or 154D of the *Crimes Act 1900*,
- (b) an offence under section 7, 36, 50, 50A (2), 51 (1A), 51 (2A), 51A or 51D (2) of the *Firearms Act 1996*, being an offence that relates to a prohibited firearm or pistol,
- (c) an offence under section 51B or 51BB of the *Firearms Act 1996*.

8 Measures that constitute the community conference intervention program

The program is constituted by the following measures:

- (a) **Offender enters into agreement to participate in the program**
A participating court refers an offender for participation in a conference by making a conference participation order and the offender enters into an agreement to participate in the program.
- (b) **Conference facilitator arranges conference**
A conference facilitator arranges a conference in respect of the offender.
- (c) **Conference held and draft intervention plan prepared**
A conference is held with the aim of determining an appropriate draft intervention plan for the offender. Any draft intervention plan arising from the conference is referred to the participating court.
- (d) **Offender to complete intervention plan**
If the participating court makes an intervention plan order, the offender completes the intervention plan to which the order applies.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Amendments

Schedule 1

9 Decision not to participate in intervention program

- (1) If a referred offender decides not to participate, or to continue to participate, in the program, the referred offender is to notify this decision to the program administrator of the participating court that made the conference participation order or intervention plan order applying to that offender.
- (2) The program administrator is to notify the court of the referred offender's decision within 7 days of being notified by the referred offender under subclause (1).

Division 2 Conferences

10 Notification of conference participation order

- (1) A participating court that makes a conference participation order must, within 7 days after making the order, notify the program administrator for the court that it has done so.
- (2) As soon as practicable after being notified under subclause (1), the program administrator must allocate a conference facilitator to arrange and facilitate a conference in respect of the offender to whom the order applies.

11 Time limit for holding conferences (cf s 43 Young Offenders Act 1997)

A conference is to be held in respect of a referred offender:

- (a) if practicable, within 28 days after the program administrator is notified by the participating court that it has made a conference participation order applying to that offender, or
- (b) as soon as practicable after that 28 days has elapsed.

12 Preparation for conferences (cf s 45 Young Offenders Act 1997)

- (1) A conference facilitator must determine:
 - (a) the date, time and location of any conference that the conference facilitator has been allocated to facilitate, and
 - (b) the persons who are to be invited to attend the conference.
- (2) The conference facilitator must, if practicable, before determining the matters referred to in subclause (1):
 - (a) consult with the program administrator for the court that made the conference participation order, the referred offender concerned and any victim of that offender, and

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Schedule 1 Amendments

- (b) advise any such victim:
 - (i) of the victim's right to attend and to be accompanied by one or more support persons, and
 - (ii) if the victim cannot or elects not to attend the conference—of the victim's right to be represented by a person chosen by the victim and to have the victim's views about the matter conveyed to conference participants, and
 - (c) consider the specific needs and expressed views or wishes of the referred offender and of any such victim.
- (3) Before the conference is held, the conference facilitator must notify the referred offender of the following information:
- (a) the offence in respect of which the conference is to be held,
 - (b) the date, time and location of the conference,
 - (c) the name of the conference facilitator,
 - (d) any requirements to be met by the referred offender,
 - (e) the right of the referred offender to decide not to participate, or to continue to participate, in the program, the requirement for the referred offender to notify the program administrator of any such decision and the consequences of any such decision,
 - (f) the consequences of failure to attend the conference,
 - (g) the right of the referred offender to obtain legal advice and where that advice may be obtained,
 - (h) the right of the referred offender to have a legal practitioner attend the conference in an advisory, but not in a representative, capacity,
 - (i) the right of the referred offender to have one or more support persons attend the conference.
- (4) Before a conference is held, the conference facilitator must take all reasonable steps to notify any other persons who are entitled to attend, or who the conference facilitator determines are to be invited to attend, of the date, time and location of the conference.
- (5) Before a conference is held, the conference facilitator must take all reasonable steps to provide persons who are to attend the conference with information available to the conference facilitator that, in the conference facilitator's opinion, will assist the participants to formulate a draft intervention plan.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Amendments

Schedule 1

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- (6) Before a conference is held, the conference facilitator must ascertain, if practicable, the views about the matter of any persons who have been invited or are entitled to attend but have advised that they will not be attending.

13 Participants in conferences (cf s 47 Young Offenders Act 1997)

- (1) The following persons are entitled to attend a conference:
- (a) the referred offender in respect of whom the conference is to be held,
 - (b) the conference facilitator,
 - (c) any victim of the referred offender or a person chosen by any such victim as a representative of the victim,
 - (d) a police officer responsible for investigating the offence in respect of which the conference is proposed to be held or a person chosen by the police officer as a representative of the police officer,
 - (e) any persons chosen by the referred offender as support persons for the referred offender,
 - (f) a legal practitioner advising the referred offender,
 - (g) any persons chosen by any victim of the referred offender as support persons for any such victim.
- (2) The conference facilitator may, after consulting with the referred offender and any victim of that offender who proposes to participate in the conference, invite any of the following persons to attend a conference:
- (a) a member of the referred offender's family chosen by the referred offender,
 - (b) if the referred offender is subject to a supervised good behaviour bond, a community service order or parole—the referred offender's supervising officer,
 - (c) an interpreter,
 - (d) any other person of a class specified by the guidelines.
- (3) The following persons may be invited to attend, but not participate in, a conference, with the consent of the referred offender and any victim of that offender:
- (a) the program administrator for the court that made the conference participation order applying to the referred offender,

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Schedule 1 Amendments

- (b) a person wishing to observe the conference for a research or educational purpose, including a police officer, a magistrate and a legal practitioner,
- (c) a person wishing to observe the conference for the purpose of monitoring or evaluating the program,
- (d) a member of the news media,
- (e) any other person of a class specified by the guidelines.

14 Exclusion of persons from attending conference (cf s 48 (3) Young Offenders Act 1997)

If a conference facilitator forms the opinion that the presence of a person (other than a referred offender or any victim of that offender) may frustrate the purpose or conduct of a conference, the conference facilitator may exclude that person from attending, or continuing to attend, the conference.

15 Conference may deal with more than one offender and offence (cf s 48 (8) Young Offenders Act 1997)

A conference may be held in respect of more than one offender and more than one offence.

16 Views of persons invited but not in attendance (cf s 48 (5) Young Offenders Act 1997)

A conference facilitator must, at or before a conference, ensure that the participants are informed of the views of any person who is entitled or invited to attend, but is unable or declines to do so, if the conference facilitator is informed of those views.

17 Facilitation of conferences to be carried out in accordance with guidelines (cf s 49 Young Offenders Act 1997)

A conference facilitator is to facilitate a conference in accordance with any guidelines on the facilitation of conferences.

18 Representation at conferences (cf s 50 Young Offenders Act 1997)

- (1) A referred offender is entitled to be advised, but not represented, by a legal practitioner at a conference.
- (2) A conference may be adjourned at any time for the purpose of allowing the referred offender to obtain advice from a legal practitioner.

Criminal Procedure Amendment (Community Conference Intervention Program) Regulation 2005

Amendments

Schedule 1

19 Non-attendance at conferences (cf s 51 Young Offenders Act 1997)

If a referred offender fails, without reasonable explanation, to attend a conference, the conference facilitator or program administrator must notify the court that made the conference participation order applying to the referred offender.

20 Draft intervention plans (cf s 52 Young Offenders Act 1997)

- (1) The participants at a conference may agree to make such recommendations as they think fit about the referred offender in respect of whom the conference is held.
- (2) Without limiting subclause (1), a draft intervention plan may provide for one or more of the following:
 - (a) that the referred offender apologise to any victim of that offender orally or in writing,
 - (b) that the referred offender make reparations to any such victim or the community,
 - (c) that the referred offender participate in a program aimed at improving that offender's prospects (for example, a counselling program, a drug or alcohol rehabilitation program or an education program),
 - (d) the taking of action directed towards the reintegration of the referred offender into the community,
 - (e) the times within which the plan is to be implemented.
- (3) The participants may not include in a draft intervention plan a requirement that the referred offender carry out work in the community for a period that exceeds the period applying to community service orders under section 8 of the *Crimes (Sentencing Procedure) Act 1999*.
- (4) A draft intervention plan is, if possible, to be determined by consensus of the participants in the conference and, subject to subclauses (5) and (6), may be agreed to by the conference even though it is not agreed to by all the participants.
- (5) The referred offender, and any victim of that offender who personally attends the conference, each have a right of veto with respect to the whole of a draft intervention plan, or with respect to any recommendation proposed to be contained in a draft intervention plan, regardless of the views of any other participant in the conference.
- (6) A victim's right of veto does not operate unless all victims who personally attend the conference agree to the veto.

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- (7) The draft intervention plan is to be prepared in the form approved by the Minister.

21 Draft intervention plan and other matters to be reported to participating court

- (1) A program administrator must refer a draft intervention plan agreed to by conference participants to the court that made the conference participation order.
- (2) The program administrator must notify the court that made the conference participation order if a conference facilitator for a conference has informed the program administrator that:
- (a) the participants at a conference are unable to agree to a draft intervention plan, or
 - (b) the referred offender or any victim of that offender who has personally attended the conference has vetoed the draft intervention plan.
- (3) The program administrator must also provide to the court a report (prepared by the conference facilitator in the form approved by the Minister) on the following matters:
- (a) the name, address and date of birth of the referred offender,
 - (b) the nature of the offence in respect of which the conference has been held,
 - (c) the name of the conference facilitator,
 - (d) the names of the other persons who attended the conference and, if they participated, the capacity in which they participated,
 - (e) the dates on, and locations at, which the conference was held,
 - (f) any recommendation contained in the draft intervention plan that has been agreed to other than by consensus (including the name of any participant who did not agree with the recommendation and any reason given by the participant for not agreeing with the recommendation),
 - (g) any failure of the conference to agree to recommendations that could be included in a draft intervention plan,
 - (h) the major points of discussion in the course of the conference,
 - (i) any other matter that the conference facilitator considers relevant, such as anything noted at the conference that the facilitator considers could assist in explaining the context for particular recommendations.

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- (4) A referral, notification or report under this clause must be made or provided at least 2 days before the date on which the court is due to continue the proceedings in respect of which the referred offender was referred.

Division 3 Intervention plans

22 Draft intervention plan may be referred back for further consideration

- (1) If a court has concerns about a draft intervention plan referred to the court under clause 21, it may:
- (a) consult with the program administrator for the court in relation to its concerns, or
 - (b) notify the program administrator for the court of its concerns and refer the draft plan for consideration under this clause.
- (2) The program administrator:
- (a) must ascertain whether the referred offender to whom the draft intervention plan applies and all of the relevant victims (if any) agree to consider the court's concerns about the draft intervention plan, and
 - (b) if they do so, must arrange for the referred offender and those victims to consider the court's concerns.
- Note.** See definition of *relevant victim* appearing in subclause (11).
- (3) If the referred offender and all of the relevant victims (if any) agree to consider the court's concerns, they are to do so:
- (a) if practicable, within 7 days after the program administrator is notified by the court under subclause (1), or
 - (b) as soon as practicable after that 7 days has elapsed.
- (4) On considering the court's concerns, the referred offender and the relevant victims (if any) may decide to vary the draft intervention plan or decide not to vary the draft intervention plan.
- (5) Any such decision is, if possible, to be made by consensus of the referred offender and the relevant victims (if any).
- (6) The referred offender and any relevant victim each have a right of veto with respect to any proposed variation to the draft intervention plan. However, a victim's right of veto does not operate unless all such victims agree to the veto.

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- (7) A draft intervention plan cannot be varied under this clause to require that the referred offender carry out work in the community for a period that exceeds the period applying to community service orders under section 8 of the *Crimes (Sentencing Procedure) Act 1999*.
- (8) The program administrator must notify the court of:
- (a) any failure of the referred offender and the relevant victims (if any) to agree to consider the court's concerns, or
 - (b) any decision made under subclause (4) to vary or not to vary the draft intervention plan, or
 - (c) any failure of the referred offender and the relevant victims (if any) to agree on a decision under subclause (4), or
 - (d) any veto of a proposed variation of the draft intervention plan.
- (9) A notice under subclause (8) must be given within 7 days (or such further period as the court may allow) of:
- (a) the date on which the program administrator ascertains that the referred offender and the relevant victims (if any) do not agree to consider the court's concerns, or
 - (b) the final date on which a decision about the draft intervention plan is made under subclause (4), or
 - (c) if the referred offender and the relevant victims (if any) fail to agree on a decision about the draft intervention plan under subclause (4), the date on which the program administrator becomes aware that they have failed to do so.
- (10) The court may not refer concerns about a draft intervention plan on more than one occasion under this clause.
- (11) In this clause:
relevant victim means any victim of the referred offender who personally attended the conference at which the draft intervention plan was determined and is able to be contacted.

23 Notification of approval or refusal

- (1) Following its consideration of any draft intervention plan referred to a court under clause 21 (including any draft intervention plan varied under clause 22 (4)) the court is to notify the program administrator for the court of the following matters:
 - (a) if the court approves the draft intervention plan—the terms of any intervention plan order made in respect of the

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- referred offender to whom the plan applies, which may include the date by which the plan must be completed,
- (b) if the court does not approve the draft intervention plan:
 - (i) that it has not approved the draft intervention plan, and
 - (ii) its reasons for not doing so.
 - (2) The court is to notify the program administrator within 7 days of making its decision to approve or not approve the intervention plan.
 - (3) The program administrator is to notify the following persons of the court's decision to approve or not approve the draft intervention plan within 7 days of being notified by the court under subclause (2):
 - (a) the conference facilitator,
 - (b) any victim of the referred offender,
 - (c) any police officer responsible for investigating the offence in respect of which that offender was referred to the program.

24 Implementation of intervention plan (cf s 56 Young Offenders Act 1997)

- (1) If a participating court makes an intervention plan order, the program administrator for the court is to supervise the implementation and completion of the applicable intervention plan by the referred offender to whom that order applies.
- (2) The program administrator must notify the following as to whether or not the intervention plan is satisfactorily completed by the referred offender:
 - (a) the court,
 - (b) the conference facilitator,
 - (c) any victim of the referred offender,
 - (d) any police officer responsible for investigating the offence in respect of which that offender was referred to the program.
- (3) If the intervention plan has not been satisfactorily completed, the program administrator must notify the court of:
 - (a) any reasons of which the program administrator is aware for the referred offender's failure to complete the plan satisfactorily, and

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- (b) if the plan has been partially completed, the extent to which it has been completed, and
- (c) any other matter that the program administrator considers relevant.

Part 5 Program administrators and conference facilitators

25 Program administrators

- (1) The Minister is to ensure that there is a program administrator for each participating court.
- (2) The functions of a program administrator are to carry out:
 - (a) administrative functions related to this Schedule, and
 - (b) any other functions conferred on program administrators by this Schedule or any guidelines.

26 Conference facilitators (cf section 60 (3) Young Offenders Act 1997)

- (1) The Director-General may appoint a person as a conference facilitator, including a police officer in the police officer's private capacity and a member of staff of a Department in the member of staff's private capacity.
- (2) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a conference facilitator.
- (3) Despite subclause (2), section 59 of the *Public Sector Employment and Management Act 2002* applies to a proposed conference facilitator who is a member of staff of a Department.
- (4) A conference facilitator has the following functions:
 - (a) to prepare for, and to hold, conferences referred to the conference facilitator by a program administrator,
 - (b) any other functions conferred or imposed on the conference facilitator by this Schedule or any guidelines.
- (5) Subject to clause 28, a conference facilitator holds office for such period (not exceeding 3 years) as is specified in the facilitator's instrument of appointment, but may be re-appointed.

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27 Remuneration of conference facilitators (cf cl 2 of Sch 1 to Young Offenders Act 1997)

A conference facilitator is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the conference facilitator.

28 Vacancy in office of conference facilitators (cf cl 3 of Sch 1 to Young Offenders Act 1997)

- (1) A person's appointment as a conference facilitator is automatically terminated if the person:
- (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Director-General, or
 - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (e) becomes a mentally incapacitated person, or
 - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Director-General may remove a conference facilitator from office at any time.

Part 6 Guidelines

29 Minister may issue guidelines in respect of the conduct of the program

- (1) The Minister may from time to time issue guidelines, not inconsistent with this Schedule, for or with respect to any or all of the following matters:
- (a) the functions of program administrators or other persons in connection with assessment for participation in the program,
 - (b) the functions of program administrators or conference facilitators in connection with the program,
 - (c) the constitution of and procedure for conferences,

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- (d) any other matter in respect of which guidelines are permitted or required by this Schedule.
- (2) Without limiting subclause (1), the guidelines may include provisions that:
 - (a) apply generally, or
 - (b) apply only in relation to specified persons, courts, groups or other bodies, or
 - (c) apply only in specified circumstances, or
 - (d) do a combination of the things referred to in paragraphs (a), (b) and (c).

Part 7 Disclosure of information in connection with the program

30 Evidence of statements generally inadmissible

- (1) Evidence of anything said, or any admission made or document produced, in a conference concerning a referred offender is not admissible in any criminal or civil proceedings.
- (2) Subclause (1) does not apply to the criminal proceedings in respect of which a referred offender was referred or any appeal made in respect of those proceedings.
- (3) Despite subclause (2), evidence of any admission made by a referred offender in a conference is not admissible in the criminal proceedings in respect of which the referred offender was referred or any appeal in respect of those proceedings.

31 Disclosure of information in connection with the program by certain persons prohibited

- (1) A relevant program participant must not disclose the name of, or any other identifying information about, a referred offender or a victim of a referred offender that is obtained in connection with:
 - (a) the assessment of the referred offender's suitability to participate in the program, or
 - (b) the conduct of the program or an intervention plan arising out of the program.

Maximum penalty: 20 penalty units.

- (2) Nothing in subclause (1) prevents a relevant program participant from disclosing the information referred to in that subclause:

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- (a) to any of the following persons:
- (i) the referred offender,
 - (ii) the conference facilitator,
 - (iii) any victim of the referred offender,
 - (iv) any police officer responsible for investigating the offence in respect of which the referred offender was referred to the program,
 - (v) if the referred officer is subject to a supervised good behaviour bond, a community service order or parole—the referred offender’s supervising officer, or
- (b) for the purposes of any legal proceedings, or
- (c) in accordance with a requirement of the *Ombudsman Act 1974* or with any request made by the Ombudsman, or
- (d) with other lawful excuse.
- (3) Nothing in subclause (1) prevents a program administrator for a participating court from disclosing the information referred to in that subclause to a person for the purpose of monitoring or evaluating the program.
- (4) In this clause:
- identifying information** in relation to a person means any information that identifies the person or that is likely to lead to the identification of the person.
- relevant program participant** means:
- (a) a program administrator for a participating court, or
 - (b) a person carrying out an assessment of a referred offender’s capacity and prospects for participation in the program, or
 - (c) a conference facilitator, or
 - (d) a person entitled or invited to participate in, or attend, a conference and a person attending any such conference, or
 - (e) a person entitled to consider a draft intervention plan under clause 22 and any person who does so.



New South Wales

Dairy Industry Conference Regulation 2005

under the

Dairy Industry Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Dairy Industry Act 2000*.

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

Explanatory note

The object of this Regulation is to remake, with various changes, the provisions of the *Dairy Industry Conference Regulation 1999* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. This Regulation provides for the following matters:

- (a) the appointment and the terms of office of the members of the New South Wales Dairy Industry Conference,
- (b) the appointment of the Chairperson of the Conference by the Minister,
- (c) the election of the Deputy Chairperson of the Conference by the members of the Conference,
- (d) the vacation of office of members of the Conference,
- (e) the procedure for calling and holding meetings of the Conference.

This Regulation is made under the *Dairy Industry Act 2000*, including sections 8 and 23 (the general regulation-making power).

This Regulation relates to matters of a machinery nature.

Dairy Industry Conference Regulation 2005

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Dairy Industry Conference Regulation 2005

Clause 1

Preliminary

Part 1

Dairy Industry Conference Regulation 2005

under the

Dairy Industry Act 2000

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Dairy Industry Conference Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note This Regulation replaces the *Dairy Industry Conference Regulation 1999* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Chairperson means the Chairperson of the Conference.

dairy produce merchant means any person:

- (a) who, otherwise than as an employee or a carrier, receives or accepts milk to be supplied to another person, or
- (b) who, otherwise than as an employee, sells milk to another person.

Deputy Chairperson means the Deputy Chairperson of the Conference.

Director-General means the Director-General of the Department of Primary Industries.

distribution sector member means:

- (a) a member appointed by the Amalgamated Milk Vendors Association Inc. to represent dairy produce merchants who are distributors by vehicle, or
- (b) a member appointed by the Australian Retailers Association to represent dairy produce merchants who are shop distributors.

meeting of the Conference means a duly convened meeting of the members.

member means a member of the Conference.

Clause 3 Dairy Industry Conference Regulation 2005

Part 1 Preliminary

processor sector member means:

- (a) a member appointed by the New South Wales Milk and Dairy Products Association to represent dairy produce merchants processing milk, or
- (b) a member appointed by the New South Wales Milk and Dairy Products Association to represent dairy produce merchants manufacturing dairy products.

producer sector member means a member appointed by the NSW Farmers' Association to represent dairy farmers.

the Act means the *Dairy Industry Act 2000*.

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

Dairy Industry Conference Regulation 2005

Clause 4

Membership of New South Wales Dairy Industry Conference

Part 2

Part 2 Membership of New South Wales Dairy Industry Conference

4 Membership of Conference

- (1) The Conference is to consist of 16 members of whom:
 - (a) one is an independent person appointed by the Minister to be the Chairperson of the Conference, and
 - (b) 2 are the members appointed by the Minister under section 7 (1) (b) and (c) of the Act, and
 - (c) one is a person appointed by the Director-General, and
 - (d) 5 are persons appointed by the NSW Farmers' Association to represent dairy farmers, and
 - (e) 4 are persons appointed by the New South Wales Milk and Dairy Products Association to represent dairy produce merchants, and
 - (f) one is a person appointed by the Amalgamated Milk Vendors Association Inc. to represent dairy produce merchants who are distributors by vehicle, and
 - (g) one is a person appointed by the Australian Retailers Association to represent dairy produce merchants who are shop distributors, and
 - (h) one is the General Manager of the Dairy Division of the Food Authority, who is an ex officio member of the Conference under section 7 (2) of the Act.
- (2) The member referred to in subclause (1) (c) is not entitled to vote on any matter considered by the Conference.
- (3) A person is qualified to be appointed as a member by an association referred to in subclause (1) whether or not the person is a member of the association.
- (4) In this clause, a reference to an association includes a reference to an association that is its successor.

5 Terms of office of members

- (1) A member referred to in clause 4 (1) (a) or (b) holds office until replaced by another member appointed by the Minister to be Chairperson or under section 7 (1) (b) or (c) of the Act, as the case may be.
- (2) A member referred to in clause 4 (1) (c) holds office until replaced by another member appointed by the Director-General.

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- (3) A member referred to in clause 4 (1) (d), (e), (f) or (g) holds office from the day of the annual meeting following the appointment of the member until the day before the annual meeting in the second year after that appointment.
- (4) A member who ceases to hold office is eligible for re-appointment if otherwise qualified.

6 Appointment of members

- (1) An association referred to in clause 4 (1) (d), (e), (f) or (g) must, before each annual meeting of the Conference, appoint a member or members to replace any member or members ceasing to hold office on the day before that annual meeting.
- (2) An association must inform the Chairperson in writing of the name and address of each person appointed at least 30 days before the annual meeting of the Conference.

7 Election of Deputy Chairperson

- (1) At each annual meeting held in an even numbered year, the members entitled to vote must elect a Deputy Chairperson of the Conference.
- (2) The Deputy Chairperson is to assume office at the conclusion of the annual general meeting and hold office until the conclusion of the next annual general meeting at which a Deputy Chairperson is required to be elected.
- (3) A member referred to in clause 4 (1) (b), (d), (e), (f) or (g) may be nominated for the office of Deputy Chairperson by any member.
- (4) If there is more than one nomination, an election is to be conducted, in accordance with the directions of the person presiding at the meeting, by secret ballot according to a preferential system of voting among the members (other than the General Manager of the Dairy Division of the Food Authority and the member referred to in clause 4 (1) (c)) present at the meeting.
- (5) A member elected as Deputy Chairperson is eligible for re-election for one or more further terms of office as Deputy Chairperson.

8 Casual vacancy in office of member appointed by Minister or Director-General

A person holding the office of a member referred to in clause 4 (1) (a), (b) or (c) vacates the office if the person:

- (a) resigns that office by instrument in writing addressed to the Minister or, in the case of a member referred to in clause 4 (1) (c), the Director-General, or

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Membership of New South Wales Dairy Industry Conference

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- (b) dies, or
 - (c) is removed from office by the Minister or, in the case of a member referred to in clause 4 (1) (c), the Director-General.

9 Casual vacancy in office of member appointed by association

- (1) A person holding the office of a member referred to in clause 4 (1) (d), (e), (f) or (g) vacates that office if the person:
 - (a) dies, or
 - (b) becomes a mentally incapacitated person, or
 - (c) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
 - (d) resigns the office by instrument in writing addressed to the Conference, or
 - (e) being a distribution sector member, a processor sector member or a producer sector member, is found by a resolution of the Conference not to be representing the interests of the distribution, processor or producer sector of the dairy industry, as the case may be.
- (2) If a vacancy occurs in the office of a member referred to in clause 4 (1) (d), (e), (f) or (g) (otherwise than by the expiration of a term of office), the relevant association is to appoint a person to fill the vacancy.
- (3) A person so appointed:
 - (a) is taken to have been appointed by the association under the same provision as that under which the person who vacated office was appointed, and
 - (b) holds office as a member during the unexpired term of the vacated office.
- (4) An association responsible for the appointment of a person to fill a vacancy in the office of a member must inform the Chairperson in writing of the name and address of the person appointed to fill the vacancy not later than 30 days after the vacancy occurs.

10 Casual vacancy in office of Deputy Chairperson

- (1) A person holding office as Deputy Chairperson vacates that office if the person:
 - (a) resigns that office by instrument in writing addressed to the Conference, or

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- (b) ceases to be a member, or
 - (c) is appointed to the office of Chairperson.
- (2) If a vacancy occurs in the office of Deputy Chairperson (otherwise than by the expiration of a term of office), the vacancy is to be filled by a member, other than the General Manager of the Dairy Division of the Food Authority or the member referred to in clause 4 (1) (c)), elected at a meeting of the Conference.
- (3) The person filling the vacancy holds office during the unexpired term of the vacated office.

11 Default in appointing members

- (1) If an association fails to appoint a member as required by a provision of this Regulation, the Chairperson must, as soon as is practicable, so advise the Minister.
- (2) The Minister may appoint a person as a member to the vacant office and that person is taken to have been appointed to that office under the provision that required the association to make the appointment.

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Clause 12

Conference meetings

Part 3

Part 3 Conference meetings

12 Meetings

- (1) Meetings of the Conference are to be held at such times and in such places as the Conference may determine.
- (2) An annual meeting of the Conference must be held in each calendar year.
- (3) The Conference may delegate to the Chairperson the responsibility of determining the times and places of meetings.

13 Transaction of business outside meetings or by telephone

- (1) The Conference may, if it thinks fit, transact any of its business by the circulation of papers among all members of the Conference for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Conference.
- (2) The Conference may, if it thinks fit, transact any of its business at a meeting at which the members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purpose of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Conference.
- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the Conference.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

14 Special meetings

- (1) The Chairperson or the Deputy Chairperson may, if either considers the circumstances warrant such action, convene a meeting of the Conference and determine the time and place of the meeting.
- (2) The Chairperson or Deputy Chairperson must convene a meeting of the Conference if at least 6 members sign a written request for the meeting.

Clause 15 Dairy Industry Conference Regulation 2005

Part 3 Conference meetings

- (3) If the Chairperson or Deputy Chairperson does not convene a meeting within 14 days after the Chairperson or Deputy Chairperson receives such a request, the members who signed the request may convene a meeting at such time and place as they determine.

15 Notice of meetings

- (1) The Chairperson or Secretary (if any) of the Conference is to send by post to each member of the Conference:
- (a) a notice of the time and place of each meeting of the Conference, and
 - (b) a copy of the agenda for the meeting.
- (2) The notice must designate the type of meeting to be held.
- (3) The notice is to be sent:
- (a) in the case of an annual or ordinary meeting—at least 14 days before the meeting, and
 - (b) in the case of a special meeting—at least 7 days before the meeting.
- (4) The copy of the agenda for a meeting is to be sent at least 7 days before the meeting.

16 Quorum

The quorum for a meeting of the Conference is 9 members.

17 Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Conference.
- (2) In the absence of both the Chairperson and the Deputy Chairperson, another member (being a member who is entitled to vote) elected to chair the meeting by the members present and entitled to vote is to preside at a meeting of the Conference.
- (3) The Chairperson, Deputy Chairperson or any other person has a deliberative but not a casting vote if presiding at a meeting of the Conference.

18 Submission of business and motions

- (1) Business and motions may be submitted to the Conference by any of the following:
- (a) an association referred to in clause 4 (1),
 - (b) a member,

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- (c) the Minister,
 - (d) the Food Authority,
 - (e) the Secretary (if any) of the Conference, on behalf of any other person who may submit business or motions under this subclause.
- (2) Motions may:
- (a) be forwarded in writing to the Chairperson or Secretary (if any) of the Conference for placing on the agenda for the next meeting of the Conference, or
 - (b) be moved at a meeting of the Conference.

19 Decisions of Conference

- (1) All decisions of the Conference are to be by way of resolution on motion.
- (2) A motion proposing that the Minister recommend to the Governor an amendment to this Regulation is lost unless at least a majority of members who are entitled to vote vote in favour of the motion.
- (3) Any other motion is lost unless at least 8 members vote in favour of the motion.

20 Conduct of Conference business

- (1) The Conference may manage its own affairs and may make such By-laws (consistent with this Regulation and the Act) as it considers necessary for the management of the Conference.
- (2) The Chairperson is to sign the minutes for each meeting of the Conference and any documents required to be signed on behalf of the Conference.
- (3) The Chairperson, jointly with the Secretary (if any) of the Conference, is responsible for the safe custody of all documents, securities and funds of the Conference.
- (4) If the Chairperson is unable to attend to the duties of that office, the Deputy Chairperson is to attend to those duties and, in any such case, the Deputy Chairperson is, for all purposes, taken to be the Chairperson.
- (5) Except where otherwise specifically provided in this Regulation, the conduct of business at meetings of the Conference is to be as determined from time to time by the Conference.

Clause 21 Dairy Industry Conference Regulation 2005

Part 4 Miscellaneous

Part 4 Miscellaneous

21 Regularity of proceedings

- (1) Failure to give notice of a meeting of the Conference does not invalidate the proceedings of the meeting.
- (2) Any communication required to be sent to a member of the Conference may be sent to the member at the last address notified to the Chairperson or Secretary (if any) of the Conference by the member.

22 Repeal

The *Dairy Industry Conference Regulation 1999* is repealed.

23 Savings and transitional provisions

- (1) The Conference constituted under the *Dairy Industry Conference Regulation 1999* immediately before its repeal is taken to be the Conference constituted under this Regulation and is taken to have been validly constituted under this Regulation until it is constituted in accordance with the provisions of clause 4.
- (2) Any act, matter or thing that, immediately before the repeal of the *Dairy Industry Conference Regulation 1999*, had effect under that Regulation is taken to have effect under this Regulation.



New South Wales

Environmental Planning and Assessment Amendment (ARTC) Regulation 2005

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

FRANK SARTOR, M.P.,
Minister for Planning

Explanatory note

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000* as follows:

- (a) to provide that provisions requiring the Australian Rail Track Corporation Ltd (*ARTC*) to obtain or be furnished with an environmental impact statement in relation to activities for the purposes of ARTC rail infrastructure facilities will have an ongoing effect (commencing on 1 September 2005) if a Code prepared by ARTC and approved by the Minister is not at any time in force in relation to those activities. Currently, those provisions are only in force on a transitional basis,
- (b) to provide that certain activities for the purposes of ARTC rail infrastructure facilities that are partly carried out on land, or partly of a kind, to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies will require an environmental impact statement and may not be regulated by an approved Code,
- (c) to make it clear that special provisions relating to activities for the purposes of ARTC rail infrastructure facilities do not affect any other requirement for ARTC to obtain or be furnished with an environmental impact statement under Part 5 of the *Environmental Planning and Assessment Act 1979* in relation to such facilities,
- (d) to make other minor, transitional and consequential amendments, including an amendment in connection with the commencement of the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005*.

Environmental Planning and Assessment Amendment (ARTC) Regulation 2005

Explanatory note

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 112 and 157 (the general regulation-making power) and clause 1 of Schedule 6. This Regulation is also made under section 88R of the *Transport Administration Act 1988*.

Environmental Planning and Assessment Amendment (ARTC) Regulation
2005

Clause 1

Environmental Planning and Assessment Amendment (ARTC) Regulation 2005

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (ARTC) Regulation 2005*.

2 Amendment of Environmental Planning and Assessment Regulation 2000

The *Environmental Planning and Assessment Regulation 2000* is amended as set out in Schedule 1.

Environmental Planning and Assessment Amendment (ARTC) Regulation
2005

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 2)

[1] Clause 244D Definitions

Insert in alphabetical order:

wetlands affected activity means a project for the purposes of ARTC rail infrastructure facilities (other than a project listed in Schedule 1 to *State Environmental Planning Policy (ARTC Rail Infrastructure) 2004*) that, but for clause 5 (2) (b) of that Policy, would include designated development under *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests*.

[2] Clause 244E Code required for rail infrastructure facilities must be complied with by ARTC

Omit “for which it is not required to furnish or obtain an environmental impact statement” from clause 244E (1).

Insert instead “if a Code is in force under this Part in relation to the activity”.

[3] Clause 244E (4)

Omit the subclause.

[4] Clause 244F Approved Code

Insert after clause 244F (1):

(1A) The Code is to apply to activities for the purposes of ARTC rail infrastructure facilities, other than activities for which ARTC is required to furnish or obtain an environmental impact statement.

[5] Clause 244G Circumstances in which an environmental impact statement is or is not required for ARTC rail infrastructure facilities (other than wetlands affected activities)

Omit clause 244G (1). Insert instead:

(1) This clause takes effect on 1 September 2005 or on such later date as the Minister may approve.

[6] Clause 244G (2)

Insert “(other than an activity for which an environmental impact statement must be obtained under section 244H)” after “facilities”.

Environmental Planning and Assessment Amendment (ARTC) Regulation
2005

Amendments

Schedule 1

[7] Clause 244G (3)

Omit the subclause. Insert instead:

- (3) However, an activity for those purposes is not a prescribed activity for the purposes of section 112 (1) of the Act if:
 - (a) the Minister gives written notice to ARTC that the activity is not an activity covered by subclause (2), or
 - (b) an approved Code is in force in relation to the activity, or
 - (c) an exemption is in force under clause 244E (2) in relation to the activity.

[8] Clause 244G (5)

Insert after clause 244G (4):

- (5) This Division does not affect any requirement (other than a requirement arising under this Division) arising under Part 5 of the Act in relation to an activity for the purposes of ARTC rail infrastructure facilities.

[9] Clauses 244H–244J

Insert after clause 244G:

244H Wetlands affected activities that require environmental impact statements

- (1) For the purposes of section 112 (1) of the Act, a wetlands affected activity is a prescribed activity for which an environmental impact statement must be furnished or obtained.
- (2) Subclause (1) does not apply to a wetlands affected activity if the only part of the project concerned that relates to land and development affected by *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* concerns the maintenance or operation of rail infrastructure facilities.

244I Existing environmental impact statements and assessments

To avoid doubt, the preparation of an environmental impact statement and any other thing done under Part 5 of the Act before the commencement of this clause in connection with rail infrastructure facilities or a wetlands affected activity are taken to have been done for the purposes of the preparation of an environmental impact statement or other thing under that Part as a result of the operation of this Division.

Environmental Planning and Assessment Amendment (ARTC) Regulation
2005

Schedule 1 Amendments

244J Continuing application of Division 4 of Part 5 of Act to Sandgate rail project

- (1) This clause is made under clause 1 of Schedule 6 to the Act, as a consequence of the enactment of the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005*.
- (2) The clause relating to pending or previous matters under Division 4 of Part 5 of the Act, as inserted in Schedule 6 to the Act by Schedule 1 [33] to the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005*, applies to the Sandgate rail project in the same way as it applies to an activity for which the Minister's approval was sought under Division 4 of Part 5 of the Act before its repeal.
- (3) To avoid doubt, an application for the Minister's approval in relation to the Sandgate rail project may be made under Division 4 of Part 5 of the Act, and that Division continues to apply to any such application, as if the Division had not been repealed.
- (4) In this clause:
Sandgate rail project means the proposed project relating to a grade separation of the rail lines at Sandgate, as described in the environmental impact statement for the Sandgate Rail Grade Separation, prepared by GHD Pty Ltd and dated 18 March 2005 (as modified by the Representations Report for the Sandgate Rail Grade Separation prepared by GHD Pty Ltd and dated July 2005).



New South Wales

Exhibited Animals Protection Regulation 2005

under the

Exhibited Animals Protection Act 1986

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Exhibited Animals Protection Act 1986*.

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

Explanatory note

The object of this Regulation is to remake, with some minor modifications, the provisions of the *Exhibited Animals Protection Regulation 1995*. The Regulation deals with the following matters:

- (a) exempting certain animals, and displays of animals, from the operation of the *Exhibited Animals Protection Act 1986* (*the Act*) and prescribing classes of animal display establishments and standards for animal display establishments (Part 2),
- (b) matters relating to authorities under the Act, including fees and conditions (Part 3),
- (c) offences relating to the keeping and display of animals regulated under the Act (Part 4),
- (d) matters of a machinery and miscellaneous nature (Parts 1 and 5 and Schedules 1–4).

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

This Regulation is made under the *Exhibited Animals Protection Act 1986*, including section 53 (the general regulation-making power) and the provisions referred to in the Regulation.

Exhibited Animals Protection Regulation 2005

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Exhibited Animals Protection Regulation 2005

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| Clause 1 | Exhibited Animals Protection Regulation 2005 |
| Part 1 | Preliminary |

Exhibited Animals Protection Regulation 2005

under the

Exhibited Animals Protection Act 1986

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Exhibited Animals Protection Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Exhibited Animals Protection Regulation 1995*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

authorised premises means premises to which an authority relates, including any land occupied by the holder of the authority for, or in connection with, the exhibition of animals in accordance with the authority.

authority means a licence, an approval under section 22 of the Act or a permit.

drive-through area means any part of an animal display establishment in which there is exhibited an animal and through which the public may be permitted to drive motor vehicles without being separated from the animal by a fence, moat or cage forming part of the establishment.

enclosure includes a cage or other structure in which an exhibited animal is kept or is treated for illness or injury.

farm means a place at which one or more animals of a species set out in Schedule 1 are kept for the primary purpose of primary production.

fence includes a wall or other barrier.

fixed establishment means premises that are an animal display establishment not being a mobile establishment.

licensed premises means premises to which a licence relates.

Exhibited Animals Protection Regulation 2005

Clause 3

Preliminary

Part 1

minor establishment means a fixed establishment at which no more than 30 animals are exhibited.

mobile establishment means an animal display establishment comprising premises that are of a type referred to in section 22 (2) of the Act.

permit animal means an animal of a species set out in Schedule 2.

pet shop means premises in which animals are kept primarily for sale as pets in the course of a trade, business or profession.

the Act means the *Exhibited Animals Protection Act 1986*.

Clause 4 Exhibited Animals Protection Regulation 2005

Part 2 Animal display establishments

Part 2 Animal display establishments

4 Exemptions from licensing requirements

- (1) For the purposes of section 4 (1) of the Act, an animal display establishment is exempt from the requirement to be licensed if the only animals exhibited at the establishment are freshwater fish that are kept:
 - (a) in a decorative or landscaped pond or ponds of any size, or
 - (b) in an aquarium that has a capacity of less than 2,000 litres or aquaria that have a total capacity of less than 2,000 litres.
- (2) For the purposes of section 4 (1) of the Act, an animal display establishment is exempt from the requirement to be licensed in respect of an animal if the animal is in an enclosed area and the Director-General is satisfied that:
 - (a) the animal is in a wild state, and
 - (b) given the nature and circumstances of the animal and establishment concerned, it would be unreasonable to require the use of the establishment to be licensed (and comply with the licensing requirements) under the Act.

Note. Certain wildlife sanctuaries require and maintain very limited human interaction with the animals kept on those premises. In such cases the Director-General may form the view that it is unreasonable to require the operator of the sanctuary to comply with the strict requirements of a licence under the Act.

5 Exhibitions exempted from the operation of the Act

- (1) For the purposes of paragraph (c) of the definition of *exhibit* in section 5 (1) of the Act, it is declared that the display, or keeping for display, of an animal in the following circumstances does not constitute an exhibition of the animal for the purposes of the Act:
 - (a) that the animal is a free-living animal in its natural habitat,
 - (b) that the animal is a lawful captive and is part of a competitive display of household pets,
 - (c) that the animal is part of a competitive display of domestic farm animals,
 - (d) that the animal is a domestic farm animal being used to demonstrate the acquisition of wool, milk or other produce of a living animal,
 - (e) that the animal is of domestic hoof-stock and is performing, or is to perform, in an event at a rodeo,
 - (f) that the animal is a lawful captive that is not displayed or kept for display, to the public,

Exhibited Animals Protection Regulation 2005

Clause 5

Animal display establishments

Part 2

-
- (g) that the animal is displayed, or kept for display, in accordance with the authority conferred by a scientific licence in force under section 132C of the *National Parks and Wildlife Act 1974*,
 - (h) that the animal is displayed, or kept for display, in the course of carrying on the business of animal research, or in the course of carrying out animal research, without contravening the *Animal Research Act 1985*,
 - (i) that the animal, being an animal of a species listed in Schedule 3 and not being an animal kept pursuant to an approval or permit or at a licensed animal display establishment, is an animal used only for riding or racing,
 - (j) that the animal is kept in a pet shop for display and not for sale,
 - (k) that the animal, being an animal of a species listed in Schedule 1 and not being an animal kept pursuant to an approval or permit or at a licensed animal display establishment, is displayed:
 - (i) at an agricultural show or show parade conducted by the Royal Agricultural Society or a society that is a member of the Agricultural Societies Council, or
 - (ii) at an agricultural field day conducted on a farm or showground, or
 - (iii) on the farm on which the animal is kept,
 - (l) that the animal, being an animal of a species listed in Schedule 1, and not being an animal kept pursuant to an approval or permit or at a licensed animal display establishment, is displayed, or kept for display, for the purposes of promoting an agricultural product derived from that species of animal and:
 - (i) the animal is one of no more than 10 animals displayed, or kept for display, for this purpose at any one time, and
 - (ii) any display lasts for no more than 2 days at a time and is conducted at least 5 days after any previous display of the animal, and
 - (iii) the animal is displayed near a display of the relevant agricultural product or shortly before or after such a display, and
 - (iv) the person who normally cares for the animal attends the animal for the duration of any display,
 - (m) that the animal is a fish that is kept (otherwise than in a habitat display) at:
 - (i) a fish hatchery, or
 - (ii) a fish farm,

Clause 6 Exhibited Animals Protection Regulation 2005

Part 2 Animal display establishments

for the purpose of:

- (iii) commercial food production, or
 - (iv) re-stocking of lakes, dams or waterways,
 - (n) that the animal is a lawful captive and is being displayed, or kept for display, at a meeting of an association dedicated to the keeping of that type of animal,
 - (o) that the animal is being displayed, or kept for display, by a school student at a school for a single “show-and-tell” activity.
- (2) If the display of any animal that constitutes exhibition for the purposes of the Act and the display of any animal that does not constitute exhibition for the purposes of the Act (by virtue of subclause (1)) takes place at the same time on the same premises, any authority issued in relation to the premises applies to all animals at the premises.

Note. For example, if a pony ride (which is not exhibition for the purposes of the Act by virtue of clause 5 (1) (i)) takes place at an exhibition or display farm to which an approval relates, the approval, and any terms, conditions or standards that have effect under the approval, also apply to the pony ride.

6 Zoological parks

For the purposes of the definition of *zoological park* in section 5 (1) of the Act, an educational, cultural, scientific or recreational purpose is a prescribed purpose.

7 Classes of animal display establishments

- (1) For the purposes of section 12 of the Act, fixed establishments are a prescribed class of animal display establishments.
- (2) For the purposes of section 13 of the Act, the classes of animal display establishments are:
 - (a) fixed establishments, and
 - (b) mobile establishments.

8 Standards for animal display establishments

- (1) The following standards (as published by the Director-General from time to time) are prescribed for the purposes of sections 14 and 25 of the Act:

General Standards for Exhibiting Animals in New South Wales

Standards for Exhibiting Koalas (*Phascolarctos cinereus*) in New South Wales

Standards for Exhibiting Bottle-nosed Dolphins (*Tursiops truncatus*) in New South Wales

Standards for Exhibiting Captive Raptors in New South Wales

Exhibited Animals Protection Regulation 2005

Clause 9

Animal display establishments

Part 2

Standards for Exhibiting Captive Macropods (Kangaroos, Wallabies and Allies) in New South Wales

Standards for Exhibiting Carnivores in New South Wales

Policy on Exhibiting Primates in New South Wales

Standards for Exhibiting Circus Animals in New South Wales.

- (2) It is a condition of an authority that the exhibition of animals to which it relates must be in accordance with such of the standards referred to in this clause as are applicable in relation to the authority.
- (3) The Director-General may, at the request of a person who is the applicant for or holder of an authority that relates to:
 - (a) an animal display establishment that was in existence before 9 June 1989, or
 - (b) the exhibition of an animal that was exhibited by the person before that time,vary any standard otherwise applicable under this clause to the establishment or the exhibition of the animal by the person.
- (4) If a standard is varied under this clause, the standard applicable to the establishment or exhibition of the animal concerned is the standard as so varied.

9 Exhibitions of species of animals that require permits

The species of animals prescribed for the purposes of sections 24 and 25 of the Act are those set out in Schedule 2.

Clause 10 Exhibited Animals Protection Regulation 2005

Part 3 Authorities

Part 3 Authorities

Division 1 General

10 Application for issue, renewal or variation of authority

- (1) An application for the issue, renewal or variation of an authority (other than a licence to be issued under section 18 of the Act following an approval under that section) or for the transfer of a licence:
 - (a) must be made in writing in the form approved by the Director-General for the purposes of the application, and
 - (b) must be accompanied by any supporting documents referred to in the approved form and by the relevant fee or fees, and
 - (c) in the case of an application for renewal—must be lodged with the Director-General during the month of May that last precedes expiration of the authority.
- (2) An application for a renewal of an authority that complies with subclause (1) operates to renew the authority unless:
 - (a) the Director-General notifies the holder of the authority that renewal of the authority has been refused, or
 - (b) the application has been deemed to be refused by operation of section 27 (4) of the Act.
- (3) An application for renewal of an authority is not required and subclause (2) has effect as if such an application had been made in compliance with subclause (1) if:
 - (a) the authority first takes effect during May or June, and
 - (b) the fee or fees for renewal of the authority is or are paid before the next succeeding 1 July.
- (4) The Director-General must not issue a licence unless:
 - (a) the applicant has, to the satisfaction of the Director-General, completed a course of study of a kind approved by the Director-General concerning the requirements of the Act and this Regulation, and
 - (b) the applicant understands, to the satisfaction of the Director-General, the requirements of the Act and this Regulation.
- (5) An application is not required for a licence to be issued under section 18 (4) of the Act.

Exhibited Animals Protection Regulation 2005

Clause 11

Authorities

Part 3

11 Fees

- (1) The fee for the lodgment of an application of a class specified in the Table to this clause is the lodgment fee specified opposite that class of application.
- (2) The fee for the issue of an authority following an application of a class specified in the Table to this clause is the issue fee specified opposite that class of application.
- (3) Despite subclause (2), if an authority issued by the Director-General is to take effect during a month other than July, the applicant is to pay:
 - (a) the applicable lodgement fee (if any), and
 - (b) the applicable issue fee adjusted on a pro-rata basis.
- (4) In this clause:
minor exhibitor means a person who exhibits or is to exhibit no more than 30 animals.

Table

| Application for | Lodgment fee | Issue fee |
|---|---------------------|--|
| Approval under section 18 of the Act | \$200 | nil |
| Licence under section 18 of the Act | nil | \$250 for minor establishments, otherwise \$900 |
| Renewal of licence under section 18 of the Act | \$100 | \$250 for minor establishments, otherwise \$900 |
| Approval under section 19 of the Act | \$40 | nil |
| Approval under section 22 of the Act | \$200 | \$250 for minor exhibitors, otherwise \$900 |
| Renewal of approval under section 22 of the Act | \$100 | \$250 for minor exhibitors, otherwise \$900 |
| Permit under section 24 of the Act | \$20 per species | nil if applicant holds current licence or approval, \$250 if the applicant is a minor exhibitor, otherwise \$900 |

Clause 12 Exhibited Animals Protection Regulation 2005

Part 3 Authorities

| Application for | Lodgment fee | Issue fee |
|--|--|--|
| Renewal of permit under section 24 of the Act | nil if applicant holds current licence or approval, otherwise \$20 per species | nil if applicant holds current licence or approval, \$250 if the applicant is a minor exhibitor, otherwise \$900 |
| Transfer of licence under section 27 of the Act | \$200 | \$250 for minor establishments, otherwise \$900 |
| Variation of authority under section 27 of the Act | \$20 | nil |

12 Duration of authority

For the purposes of section 29 of the Act, an authority remains in force (unless it is earlier cancelled or except during any period of suspension) until:

- (a) in the case of an authority other than a renewed authority—1 July following the date on which the authority commences, or
- (b) in the case of a renewed authority—1 July following the date on which the renewed authority commences.

13 Appeals

- (1) An aggrieved person may appeal to the Minister under section 32 of the Act by lodging with the Minister, within 28 days after service on the person of written notice of the decision appealed against, a notice of appeal that complies with subclause (2).
- (2) To comply with this subclause, a notice of appeal must:
 - (a) be signed by or on behalf of the appellant, and
 - (b) identify the decision appealed against, and
 - (c) state the grounds of the appeal, and
 - (d) state any directions the appellant desires the Minister to give if the appeal is upheld.
- (3) The Minister must do the following before making a decision on an appeal:
 - (a) give the Director-General an opportunity to make submissions in relation to the appeal,
 - (b) take any such submissions into account.

Exhibited Animals Protection Regulation 2005

Clause 14

Authorities

Part 3

-
- (4) The time within which an aggrieved person may appeal under section 33 of the Act to a Local Court is 28 days after service on the person of written notice of the decision appealed against.

Division 2 Conditions

14 Conservation education

It is a condition of every authority that the authority holder is to provide education to the public concerning the conservation of animals to a standard approved by the Director-General.

15 Australasian Species Management Program

An authority may include a condition requiring the holder to participate in the Australasian Species Management Program of the Australasian Regional Association of Zoological Parks and Aquaria.

16 Breeding from stock

An authority is subject to a condition that the holder must not engage in the breeding of the animals to which the authority relates if the breeding:

- (a) would adversely affect the welfare of the progeny because of budgetary or space constraints, or
- (b) would, in the opinion of the Director-General, add to an existing surplus of the species, or
- (c) would not be in accordance with the Australasian Species Management Program referred to in clause 15, or
- (d) in the opinion of the Director-General, would not, for any other reason, be in the best interests of the species or an individual animal.

17 Insurance

An authority is subject to a condition requiring the holder to maintain a policy of insurance, providing cover of an amount approved by the Director-General, against any liability of the holder, or of a servant or agent of the holder, for death, injury or damage that arises out of or in connection with an activity authorised by the authority.

Clause 18 Exhibited Animals Protection Regulation 2005

Part 3 Authorities

18 Exhibition of animals at circuses

It is a condition of every approval under Division 2 of Part 3 of the Act authorising the exhibition of an animal at a circus that the animal will be kept and exhibited in accordance with the Standards for Exhibiting Circus Animals in New South Wales approved and published by the Director-General.

19 Imposition of terms and conditions by the Director-General

- (1) Terms or conditions of an authority may be imposed by the Director-General under section 28 (1) (c) of the Act after the issue of the authority:
 - (a) at the request of the holder of the authority, or
 - (b) otherwise than at the request of the holder of the authority if subclause (3) has been complied with by the Director-General before imposition of the term or condition.
- (2) A term or condition of an authority that is specified under section 28 (1) (b) of the Act in the authority when it is issued, or that is imposed by the Director-General under section 28 (1) (c) of the Act after it is issued, may be varied by the Director-General if the decision to make the variation is made after subclause (3) has been complied with.
- (3) This subclause is complied with if:
 - (a) the Director-General gives the holder of the authority written notice that the Director-General is considering the imposition or variation of terms or conditions specified in the notice, and
 - (b) the notice states that the holder of the authority may, within a specified time, make written representations to the Director-General or arrange with the Director-General for the making of oral representations, and
 - (c) before making any decision in relation to a term, condition or variation under consideration, the Director-General takes into account any such representations.

Exhibited Animals Protection Regulation 2005

Clause 20

Offences

Part 4

Part 4 Offences

20 Display of authority

The holder of an authority must cause the authority to be at all times publicly displayed in a prominent position:

- (a) if the authority is a permit or approval—at the premises at which the animals concerned are being displayed, or
- (b) in any other case—on the authorised premises.

Maximum penalty: 10 penalty units.

21 Veterinary drugs

- (1) The holder of an authority must ensure that veterinary drugs, vaccines and like products kept on the authorised premises are so kept in a manner that allows access to them only by a registered veterinarian or a person authorised by a registered veterinarian.

Maximum penalty: 10 penalty units.

- (2) The holder of an authority must not cause or permit a person, other than a registered veterinarian, to administer a drug or vaccine to an animal that is exhibited on authorised premises except as directed by a registered veterinarian.

Maximum penalty: 10 penalty units.

- (3) A person other than a registered veterinarian must not, except as directed by a registered veterinarian, administer a drug or vaccine to an animal that is exhibited on authorised premises.

Maximum penalty: 10 penalty units.

22 Notification of outbreak of disease

The holder of an authority must notify the Director-General of any widespread outbreak of a debilitating or fatal disease among the animals on the authorised premises and must do so not later than 24 hours after discovery of the outbreak.

Maximum penalty: 10 penalty units.

23 Disposal of unwanted veterinary equipment

- (1) The holder of an authority must not cause or permit a person to dispose of unwanted or contaminated veterinary equipment from authorised premises in such a way so that the equipment becomes a danger to any person.

Maximum penalty: 10 penalty units.

Clause 24 Exhibited Animals Protection Regulation 2005

Part 4 Offences

- (2) A person disposing of unwanted or contaminated veterinary equipment from authorised premises must do so in such a way that the equipment does not become a danger to any person.

Maximum penalty: 10 penalty units.

24 Tethering of animals

- (1) A person must not chain or tether an exhibited animal, or cause or permit such an animal to be chained or tethered, to an anchorage except for the purposes of veterinary treatment or grooming.

Maximum penalty: 10 penalty units.

- (2) Subclause (1) does not apply:

- (a) to elephants or domesticated hoof-stock if the Standards for Exhibiting Circus Animals in New South Wales are observed, or
- (b) to elephants on licensed premises that are not on display:
 - (i) at night, or
 - (ii) during an emergency situation, or
- (c) to raptors if the Standards for Exhibiting Captive Raptors in New South Wales are observed.

25 Dangerous or unsuitable housing

- (1) If the Director-General (or an inspector) considers that an exhibited animal is caged or otherwise housed in conditions that threaten human safety or are unsuitable for the animal, the Director-General (or the inspector) may direct the exhibitor of the animal:

- (a) to remove the animal to a cage or other housing approved by the Director-General (or the inspector), or
- (b) to modify the cage or housing in a specified way within a specified time, or
- (c) to demolish the cage or housing within a specified time.

- (2) An exhibitor of an animal who is given a direction under subclause (1) must comply with the direction.

Maximum penalty: 10 penalty units.

26 Exhibition of unconfined animal

The exhibitor of an animal in contact with the public must so supervise and control it as to prevent injury to the public or to the animal.

Maximum penalty: 10 penalty units.

Exhibited Animals Protection Regulation 2005

Clause 27

Offences

Part 4

27 Safety in drive-through area

- (1) The exhibitor of a dangerous animal kept in a drive-through area must cause admission of a motor vehicle to the area to be refused unless the persons in the vehicle are enclosed within a solid structure forming part of the vehicle.

Maximum penalty: 10 penalty units.

- (2) While a person is inside a drive-through area, the exhibitor of a dangerous animal in the area must cause:

- (a) a suitable vehicle to be immediately available to rescue an endangered person, whether or not by towing or lifting a vehicle containing the endangered person, and
- (b) continuous observation to be maintained over the entire area, and
- (c) a suitably trained and armed member of the staff of the animal display establishment that includes the area, to be immediately available to kill or sedate an animal in order to save human life or prevent injury.

Maximum penalty: 10 penalty units.

- (3) In this clause:

dangerous animal means:

- (a) an animal of a species (such as tigers, lions and bears) whose members ordinarily pose a significant risk of death or injury to the public, or
- (b) an animal that, because of its particular disposition, health or other condition, poses a significant risk of death or injury to the public.

28 Escape of animal

- (1) An exhibitor of a permit animal must, if the animal escapes from the authorised premises, notify the Director-General:

- (a) of the escape within 2 hours, and
- (b) immediately on recapture of the animal.

- (2) If a permit animal escapes from an enclosure within authorised premises but not from the premises, the permit holder must notify the Director-General:

- (a) of the escape within 2 hours, and
- (b) immediately on recapture of the animal.

Clause 29 Exhibited Animals Protection Regulation 2005

Part 4 Offences

- (3) If an animal other than a permit animal escapes from authorised premises, or from an enclosure within authorised premises but not from the premises, the holder of the authority must notify the Director-General of the escape within 48 hours of the escape and immediately on recapture of the animal.
- (4) The holder of an authority must make all reasonable efforts to recover, alive or dead, an exhibited animal that escapes.
Maximum penalty: 10 penalty units.

29 Venomous animals

An exhibitor of an animal that is venomous to human beings must:

- (a) if a suitable antivenom exists, at all times have an appropriate supply of the antivenom available at the place of exhibition of the animal or at the nearest hospital, and
- (b) maintain an emergency plan for the treatment of a person envenomed by the animal.

Maximum penalty: 10 penalty units.

30 Reporting of injuries to people

The holder of an authority must immediately report to the Director-General any incident involving:

- (a) the death of a person, or
- (b) injury to a person that requires medical treatment, caused by an animal to which the authority relates.

Maximum penalty: 10 penalty units.

31 Noisy construction and maintenance work

An exhibitor of animals must take such steps as are necessary to alleviate any undue distress or disturbance of the animals resulting from the noise of construction or maintenance work being carried on by or on behalf of the exhibitor.

Maximum penalty: 10 penalty units.

32 Acquisition and disposal of animals

The holder of an authority must not:

- (a) acquire an animal for exhibition if the holder knows, or ought reasonably to know, that the transaction is with a person who, by acquiring, possessing or disposing of the animal, committed an offence under this Act or any of the following Acts:
- (i) the *Animal Research Act 1985*,

Exhibited Animals Protection Regulation 2005

Clause 33

Offences

Part 4

- (ii) the *National Parks and Wildlife Act 1974*,
 - (iii) the *Non-Indigenous Animals Act 1987*,
 - (iv) the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or
- (b) dispose of an exhibited animal to a person who the holder knows, or ought reasonably to know, by acquiring, possessing or disposing of the animal would commit an offence under any of those Acts, or
- (c) except in the case of an animal listed in Schedule 4—without the consent of the Director-General, acquire an animal for exhibition or dispose of an exhibited animal.

Maximum penalty: 10 penalty units.

33 Removal of exhibited animal

- (1) The holder of a licence for an animal display establishment must not, without the written consent of the Director-General, keep an exhibited animal, or permit such an animal to be kept, outside the animal display establishment in which it is ordinarily exhibited.
Maximum penalty: 10 penalty units.
- (2) The holder of an authority must not remove an animal from the authorised premises unless an application in the approved form for the consent of the Director-General to the removal of the animal was made:
- (a) at least 7 days before the proposed removal, or
 - (b) by agreement with the Director-General, at a later time,
- and the Director-General has given his or her written consent to the removal of the animal.
Maximum penalty: 10 penalty units.
- (3) Subclauses (1) and (2) do not apply in relation to an animal if:
- (a) it is being taken to, or returned from, the premises of a registered veterinarian, or
 - (b) it is being kept on the premises of a registered veterinarian for treatment or observation, or
 - (c) it is being transported from one authorised premises under an authority to another authorised premises under that authority, or
 - (d) it is being transported to give effect to its lawful disposition or acquisition.
- (4) In this clause, *approved form* means a form approved by the Director-General.

Clause 34 Exhibited Animals Protection Regulation 2005

Part 4 Offences

34 Exemption from requirements concerning acquisition, disposal and removal of animals

- (1) The Director-General may exempt a holder of an authority, or a class of holder of an authority, from the requirements of clauses 32 (c) and 33 (2).
- (2) The exemption may be given either unconditionally or subject to conditions.
- (3) Where an exemption is given subject to conditions, the exemption does not have effect while any of the conditions is not being complied with.

35 Animal records

- (1) In this clause:
relevant period, in relation to an authority, means:
 - (a) the period that begins when the authority first takes effect and ends on the next succeeding 30 April, and
 - (b) each period of 12 months that commences on 1 May and succeeds the period referred to in paragraph (a).
- (2) The holder of an authority must, at all times during each relevant period while the authority is in force, keep on the authorised premises (or at such other place as is approved by the Director-General) animal records in a form approved by the Director-General.
Maximum penalty: 10 penalty units.
- (3) For the purposes of subclause (2), if an authority relates to more than one premises the animal records need only be kept at the premises at which the animal concerned is most often kept.
- (4) As soon as practicable after information required to keep the animal records up-to-date becomes available to the holder of an authority, the holder must cause the information to be entered in the animal records.
Maximum penalty: 10 penalty units.
- (5) The holder of an authority must:
 - (a) notify the Director-General within 7 days after the loss of, or after any damage to, the animal records, or
 - (b) enter, or allow an entry to be made, in the animal records:
 - (i) if the records are in a written or printed form—only in ink, or
 - (ii) if the records are stored in electronic form—only in a manner approved by the Director-General, or
 - (c) delete an erroneous entry in the animal records, or allow such an erroneous entry to be deleted:

Exhibited Animals Protection Regulation 2005

Clause 36

Offences

Part 4

- (i) if the records are in a written or printed form—only by drawing a single line through the entry, or
- (ii) if the records are stored in electronic form—only in a manner approved by the Director-General.

Maximum penalty: 10 penalty units.

- (6) A person must not enter, or allow an entry to be made, in the animal records that the person knows to be false or misleading in a material particular.

Maximum penalty: 10 penalty units.

- (7) The holder of an authority making an application for its renewal must lodge with the application the animal records required to be kept during the relevant period for the authority that last preceded the application.

Maximum penalty: 10 penalty units.

- (8) The former holder of the authority must, not later than 14 days after expiration of an authority, lodge with the Director-General the animal records the former holder was required to keep:

- (a) during the relevant period for the authority that expired on the last preceding 30 April, and
- (b) during the relevant period for the authority that commenced on the last preceding 1 May.

Maximum penalty: 10 penalty units.

- (9) If an authority is surrendered, suspended or cancelled, the holder, or former holder, of the authority must:

- (a) within 14 days after the surrender, or
- (b) within 14 days after being notified of the suspension or cancellation,

lodge with the Director-General the animal records the holder, or former holder, was required to keep during the relevant period for the authority that commenced on 1 May last preceding the surrender, suspension or cancellation.

Maximum penalty: 10 penalty units.

36 Other records

- (1) An exhibitor of animals must maintain, in a manner approved by the Director-General, an up-to-date record of:
- (a) any illness, disease, injury or other poor health of animals, and
 - (b) the day-to-day progress or regress of the animals, and
 - (c) the treatment, medicinal and otherwise, administered to the animals.

Clause 37 Exhibited Animals Protection Regulation 2005

Part 4 Offences

- (2) An exhibitor of animals must maintain, in a manner approved by the Director-General, an up-to-date record of routine checks made on the health of the animals.
- (3) An exhibitor of animals must maintain, in a manner approved by the Director-General, an up-to-date record of each veterinary inspection of the animals and of any veterinary care given to the animals.
- (4) An exhibitor of animals must retain, for at least 2 years after it is made, a record made under this clause.

Maximum penalty: 10 penalty units.

37 Species identification

- (1) An exhibitor of animals must make, and retain for at least 2 years after it is made, a record of the name and qualifications of a person who identifies a species of animals for the exhibitor.
- (2) If the Director-General so directs, an exhibitor of animals must have the species of the animals identified by a person nominated by the Director-General.

Maximum penalty: 10 penalty units.

38 Variation of record keeping obligations

The Director-General may, at the request of the holder of an authority or an exhibitor, exempt the holder or exhibitor from any obligation to keep records otherwise applicable to that holder or exhibitor under clause 35, 36 or 37.

39 Attendants and other staff

An exhibitor of animals must:

- (a) employ such number of adequately trained and competent staff as is necessary to maintain daily the level of animal husbandry required by this Regulation, and
- (b) employ such number of qualified or experienced animal attendants as are necessary to maintain the level of care of the exhibited animals required by this Regulation, and
- (c) make such arrangements as are necessary to ensure that there will at all times be a person authorised to call for veterinary advice in relation to the animals.

Maximum penalty: 10 penalty units.

Exhibited Animals Protection Regulation 2005

Clause 40

Offences

Part 4

40 Compliance with conditions

The holder of an authority must comply with any conditions to which the authority or an exemption given to the holder under clause 34 is subject.

Maximum penalty: 10 penalty units.

Clause 41 Exhibited Animals Protection Regulation 2005

Part 5 Miscellaneous

Part 5 Miscellaneous

41 Organisations that may nominate persons to be members of advisory committee

- (1) For the purposes of section 6 (4) (e) of the Act, the following are prescribed animal welfare organisations:

Animal Welfare League NSW

Humane Society International

Primates for Primates

Royal Society for the Prevention of Cruelty to Animals

World Wide Fund for Nature Australia.

- (2) For the purposes of section 6 (4) (f) of the Act, the following are prescribed organisations representing exhibitors of animals:

Australasian Regional Association of Zoological Parks and Aquaria

Circus Federation of Australia

Mobile Wildlife Educators Association

New South Wales Fauna and Marine Parks Association.

42 Bonds paid as condition of cetacea display licence

- (1) For the purposes of section 37 of the Act:

(a) the prescribed amount is \$60,000, and

(b) an arrangement for a financial institution to guarantee the payment of an amount to the Director-General (not exceeding \$60,000) is a prescribed arrangement.

- (2) The Director-General must invest any money:

(a) deposited with the Director-General under section 37 of the Act by a licensee and that has not, for the time being, been spent in accordance with that section, and

(b) paid to the Director-General under an arrangement referred to in subclause (1) (b) and that has not, for the time being, been spent in accordance with that section.

- (3) The money must be invested:

(a) in a manner authorised by the *Trustee Act 1925* for the investment of trust funds, and

(b) so that not more than one month's notice is required for its repayment,

and the Director-General must arrange for the income to be paid directly to, or as authorised by, the licensee.

Exhibited Animals Protection Regulation 2005

Clause 43

Miscellaneous

Part 5

(4) In subclause (1):

financial institution means:

- (a) a bank within the meaning of the *Banking Act 1959* of the Commonwealth, or
- (b) a financial institution approved by the Director-General.

43 Period of time for return of seized animal

For the purposes of section 41 of the Act, a period of 6 months after seizure of an animal under section 40 of the Act is the prescribed period after which the animal must be returned unless earlier dealt with under the Act.

44 Registered particulars relating to licences

The prescribed fee for a certificate containing a copy of the registered particulars relating to an animal display establishment given under section 21 of the Act is \$50.

45 Savings

Any act, matter or thing that, immediately before the repeal of the *Exhibited Animals Protection Regulation 1995*, had effect under that Regulation is taken to have effect under this Regulation.

Exhibited Animals Protection Regulation 2005

Schedule 1 Exemptions—animals displayed at certain agricultural shows and rural areas

Schedule 1 Exemptions—animals displayed at certain agricultural shows and rural areas

(Clauses 3 and 5 (1) (k) and (l))

Birds (Class Aves)

| | |
|---------------------------------|----------------------|
| <i>Alectoris chukar</i> | Chukar Partridge |
| <i>Anas platyrhynchos</i> | Domestic Duck |
| <i>Anser species</i> | Domestic Goose |
| <i>Columba livia</i> | Domestic Pigeon |
| <i>Coturnix coturnix</i> | Japanese Quail |
| <i>Dromaius novaehollandiae</i> | Emu |
| <i>Gallus gallus</i> | Domestic Chicken |
| <i>Meleagris gallopavo</i> | Domestic Turkey |
| <i>Numida meleagris</i> | Helmeted Guineafowl |
| <i>Phasianus colchicus</i> | Ring-necked Pheasant |
| <i>Struthio camelus</i> | Ostrich |

Mammals (Class Mammalia)

| | |
|-----------------------------------|--|
| <i>Bos taurus and Bos indicus</i> | Domestic Cattle |
| <i>Canis lupus familiaris</i> | Domestic Dog, but limited to Working Breeds (Farm (Working) Dog) |
| <i>Capra hircus</i> | Domestic Goat |
| <i>Cervus dama</i> | Fallow Deer |
| <i>Cervus elaphus</i> | Red Deer (Wapiti) |
| <i>Cervus timorensis</i> | Rusa Deer |
| <i>Cervus unicolor</i> | Sambar Deer |
| <i>Equus asinus</i> | Domestic Donkey |
| <i>Equus caballus</i> | Domestic Horse |
| <i>Lama glama</i> | Llama |
| <i>Lama pacos</i> | Alpaca |

Exhibited Animals Protection Regulation 2005

Exemptions—animals displayed at certain agricultural shows and rural areas

Schedule 1

| | |
|------------------------------|-----------------|
| <i>Oryctolagus cuniculus</i> | Domestic Rabbit |
| <i>Ovis aries</i> | Domestic Sheep |
| <i>Sus scrofa</i> | Domestic Pig |

Exhibited Animals Protection Regulation 2005

Schedule 2 Animals for which a section 24 permit is required

Schedule 2 Animals for which a section 24 permit is required

(Clauses 3 and 9)

Part 1 Sharks and rays (Class Chondrichthyes)

| | |
|---------------------------------|--|
| Order Lamniformes | Mackerel Sharks |
| <i>Family Lamnidae</i> | <i>Mackerel Sharks</i> |
| <i>Subfamily Lamninae</i> | <i>White Sharks and Mako (Blue Pointer) Sharks</i> |
| All species | |
| <i>Family Odontaspidae</i> | <i>Sand Tigers</i> |
| <i>Carcharias taurus</i> | Grey Nurse Shark |
| Order Carcharhiniformes | Ground Sharks |
| <i>Family Carcharhinidae</i> | <i>Requiem Sharks</i> |
| <i>Subfamily Carcharhininae</i> | <i>Tiger Sharks, Whaler Shark and Reef Sharks</i> |
| All species | |
| <i>Family Sphyrnidae</i> | <i>Hammerhead Sharks</i> |
| All species | |
| Order Rajiformes | Sawfish, Skates and Rays |
| <i>Family Dasyatidae</i> | <i>Rays, Rat-tailed Rays and Stingarees</i> |
| <i>Subfamily Dasyatinae</i> | <i>Stingrays</i> |
| All species | |

Part 2 Fish (Class Osteichthyes)

| | |
|------------------------------|---|
| Order Scorpaeniformes | Waspfish, Firefish, Scorpion Cods, Stonefishes, Velvetfishes, Gurnards and Flatheads |
| <i>Family Scorpaenidae</i> | <i>Scorpion Cods</i> |
| All species | |
| <i>Family Tetrarogidae</i> | <i>Bullroufs</i> |
| All species | |
| <i>Family Synanceiidae</i> | <i>Stonefish</i> |

Exhibited Animals Protection Regulation 2005

Animals for which a section 24 permit is required

Schedule 2

All species

Order Ceratodontiformes **Lungfish**

All species

Part 3 Amphibians (Class Amphibia)

Order Anura **Frogs and toads**

Family Bufonidae

Toads

Bufo marinus

Cane Toad

Family Dendrobatidae

Poison Arrow Frogs

All species

Family Hylidae

Tree Frogs

Litoria aurea

Green and Gold Bell Frog

Family Myobatrachidae

Southern Frogs

Pseudophryne corroboree

Corroboree Frog

Part 4 Reptiles (Class Reptilia)

Order Crocodylia **Crocodiles, alligators and allies**

All species

Order Rhynchocephalia

Tuataras

Family Sphenodidae

Tuataras

All species

Order Chelonia

Tortoises and Turtles

Family Carettochelyidae

Pitted-shelled Turtles

All species

Family Cheloniidae

Sea Turtles

All species

Family Dermochelyidae

Leathery Turtles

All species

Family Chelidae

Freshwater Tortoises

Exhibited Animals Protection Regulation 2005

Schedule 2 Animals for which a section 24 permit is required

| | |
|--------------------------------|---------------------------------------|
| <i>Pseudemydura umbrina</i> | Western Swamp Tortoise |
| Family Testudinidae | Land Tortoises |
| <i>Geochelone elephantopus</i> | Galapagos Tortoise |
| <i>Geochelone nigra</i> | Galapagos Tortoise |
| <i>Geochelone gigantea</i> | Aldabra Giant Tortoise |
| Order Squamata | Lizards and Snakes |
| Sub-Order Sauria | Lizards |
| Family Helodermatidae | Gila Monster and Beaded Lizard |
| All species | |
| Family Iguanidae | Iguanas |
| <i>Brachylophus fasciatus</i> | Fijian Banded Iguana |
| <i>Brachylophus vitiensis</i> | Fijian Crested Iguana |
| Family Pygopodidae | Legless Lizards |
| <i>Delma impar</i> | Striped Legless Lizard |
| Family Varanidae | Monitors |
| <i>Varanus giganteus</i> | Perentie |
| <i>Varanus komodoensis</i> | Komodo Dragon |
| <i>Varanus varius</i> | Lace Monitor |
| Sub-Order Serpentes | Snakes |
| Family Boidae | Pythons and Boas |
| <i>Boa constrictor</i> | Boa Constrictor |
| <i>Eunectes notaeus</i> | Yellow Anaconda |
| <i>Eunectes murinus</i> | Green Anaconda |
| <i>Liasis amethystina</i> | Scrub Python |
| <i>Python molurus</i> | Burmese Python |
| <i>Python reticulatus</i> | Reticulated Python |
| <i>Python sebae</i> | African Rock Python |
| Family Elapidae | Front-fanged Venomous Snakes |
| All species of the genera: | |
| <i>Acanthophis</i> | Death Adders |
| <i>Austrelaps</i> | Copperhead Snakes |

Exhibited Animals Protection Regulation 2005

Animals for which a section 24 permit is required

Schedule 2

| | |
|----------------------------|---------------------------|
| <i>Cryptophis</i> | Small-eyed Snakes |
| <i>Haemachatus</i> | Spitting Cobras |
| <i>Hoplocephalus</i> | Broad-headed Snakes |
| <i>Naja</i> | Cobras |
| <i>Notechis</i> | Tiger Snakes |
| <i>Ophiophagus</i> | King Cobras |
| <i>Oxyuranus</i> | Taipans and Fierce Snakes |
| <i>Pseudechis</i> | Black Snakes |
| <i>Pseudonaja</i> | Brown Snakes |
| <i>Tropidechis</i> | Rough-scaled Snakes |
| <i>Vermicella</i> | Bandy-Bandy |
| Family Crotalidae | Rattlesnakes |
| All species | |
| Family Hydrophiidae | Sea Snakes |
| All species | |
| Family Laticaudidae | Sea Kraits |
| All species | |
| Family Viperidae | Vipers |
| All species | |

Part 5 Birds (Class Aves)

| | |
|-------------------------------|--------------------|
| Order Struthioniformes | Ostriches |
| Family Struthionidae | |
| <i>Struthio camelus</i> | Ostrich |
| Order Rheiformes | Rheas |
| All species | |
| Order Casuariiformes | Cassowaries |
| Family Casuariidae | Cassowaries |
| All species | |
| Order Apterygiformes | Kiwis |

Exhibited Animals Protection Regulation 2005

Animals for which a section 24 permit is required

Schedule 2

| | |
|---|---|
| Family Rallidae | Rails, Crakes, Moorhens and Coots |
| <i>Gallirallus sylvestris</i> | Lord Howe Island Woodhen |
| Family Otididae | Bustards |
| <i>Ardeotis australis</i> | Australian Bustard |
| Order Charadriiformes | Plovers, Sandpipers, Stilts, Snipes, Oystercatchers, Curlews and Sheathbills |
| All species except <i>Larus novaehollandiae</i> | Silver Gull |
| Order Columbiformes | Pigeons and Doves |
| Family Columbidae | Pigeons and Doves |
| <i>Ptilinopus regina</i> | Rose-Crowned Fruit Dove |
| Order Psittaciformes | Cockatoos and Parrots |
| Family Cacatuidae | Cockatoos |
| <i>Cacatua pastinator</i> | Western Long-billed Corella |
| <i>Callocephalon fimbriatum</i> | Gang Gang Cockatoo |
| <i>Calyptorhynchus</i> species | Black Cockatoos |
| <i>Probosciger aterrimus</i> | Palm Cockatoo |
| Family Psittacidae | Parrots |
| <i>Ara ararauna</i> | Blue and Yellow Macaw |
| <i>Ara chloroptera</i> | Green-winged Macaw |
| <i>Ara macao</i> | Scarlet Macaw |
| <i>Anodorhynchus hyacinthinus</i> | Hyacinth Macaw |
| <i>Cyanoramphus unicolor</i> | Antipodes Island Green Kakariki |
| <i>Cyclopsitta diophthalma</i> | Double-eyed Fig-parrot |
| <i>Eclectus roratus macgilivrayi</i> | Eclectus Parrot (Australian subspecies) |
| <i>Lathamus discolor</i> | Swift Parrot |
| <i>Neophema chrysogaster</i> | Orange-bellied Parrot |
| <i>Neophema petrophila</i> | Rock Parrot |
| <i>Nestor meridionalis meridionalis</i> | South Island Kaka |
| <i>Nestor meridionalis septentrionalis</i> | North Island Kaka |
| <i>Nestor notabilis</i> | Kea |

Exhibited Animals Protection Regulation 2005

Schedule 2 Animals for which a section 24 permit is required

| | |
|---|---|
| <i>Psephotus chrysopterygius</i> | Golden-shouldered Parrot |
| <i>Strigops habroptilus</i> | Kakapo |
| Order Cuculiformes | Cuckoos, Touracos and Hoatzins |
| All species | |
| Order Strigiformes | Owls |
| All species | |
| Order Caprimulgiformes | Nightjars, Frogmouths, Potoos and Oilbirds |
| All species except <i>Podargus strigoides</i> | Tawny Frogmouth |
| Order Coraciiformes | Kingfishers, Rollers, Hornbills and Allies |
| Family Alcedinidae | Kingfishers and Kookaburras |
| <i>Todiramphus sanctus</i> | Sacred Kingfisher |
| Order Passeriformes | Perching Birds |
| Family Pittidae | Pittas |
| All species | |
| Family Menuridae | Lyrebirds |
| All species | |
| Family Maluridae | Fairy-wrens |
| <i>Malurus lamberti lamberti</i> | Variiegated Fairy-wren |
| Family Meliphagidae | Honeyeaters |
| <i>Lichenostomus melanops cassidix</i> | Helmeted Honeyeater |
| <i>Manorina melanotis</i> | Black-eared Miner |
| <i>Xanthomyza phrygia</i> | Regent Honeyeater |
| Family Passeridae | Finches and Mannikins |
| <i>Emblema bella</i> | Beautiful Firetail |
| <i>Stagonopleura oculata</i> | Red-eared Firetail |
| Family Paradisaeidae | Birds-of-Paradise |
| All species | |

Exhibited Animals Protection Regulation 2005

Animals for which a section 24 permit is required

Schedule 2

Part 6 Mammals (Class Mammalia)

Montremes (Subclass Prototheria)—egg-laying mammals

Order Monotremata Platypus and Echidnas

Family Tachyglossidae *Echidnas*

Zaglossus bruijnii Long-beaked Echidna

Family Ornithorhynchidae *Platypus*

Ornithorhynchus anatinus Platypus

Marsupials (Subclass Metatheria)—pouched mammals

Order Dasyuromorphia Quolls, Tasmanian Devils, Phascogales, Antechinus, Dunnarts and Numbats

Family Dasyuridae *Carnivorous and insectivorous marsupials*

Dasyercus cristicauda Mulgara

Dasyurus species Quolls

Parantechinus apicalis Dibbler

Phascogale species Phascogales

Sarcophilus harrisii Tasmanian Devil

Family Myrmecobiidae *Numbat*

Myrmecobius fasciatus Numbat

Order Peramelemorphia **Bandicoots and Bilby**

Isodon auratus Golden Bandicoot

Macrotis lagotis Greater Bilby

Perameles bougainville Western Barred Bandicoot

Perameles gunnii Eastern Barred Bandicoot

Family Peroryctidae *Spiny Bandicoots*

All species

Order Diprotodontia **Koalas, Wombats, Possums, Gliders, Kangaroos, Wallabies and Rat-kangaroos**

Family Phascolarctidae *Koala*

Phascolarctos cinereus Koala

Family Vombatidae *Wombats*

Lasiiorhinus krefftii Northern Hairy-nosed Wombat

Exhibited Animals Protection Regulation 2005

Schedule 2 Animals for which a section 24 permit is required

| | |
|--|--|
| Family Burramyidae | Pygmy-possums |
| <i>Burramys parvus</i> | Mountain Pygmy-possum |
| Family Petauridae | Gliders, Striped Possum and Leadbeater's Possum |
| <i>Dactylopsila</i> species | Striped Possums |
| <i>Gymnobelideus leadbeateri</i> | Leadbeater's Possum |
| <i>Petaurus australis</i> | Yellow-bellied Glider |
| <i>Petaurus gracilis</i> | Mahogany Glider |
| <i>Petaurus norfolcensis</i> | Squirrel Glider |
| Family Pseudocheiridae | Ringtail Possums and Greater Glider |
| All species except <i>Pseudocheirus peregrinus</i> | |
| Family Phalangeridae | Brush-tail Possums, Cuscuses and Scaly-tailed Possums |
| <i>Phalanger</i> species | Cuscus |
| <i>Spilocuscus</i> species | Cuscus |
| <i>Wyulda squamicaudata</i> | Scaly-tailed possum |
| Family Potoroidae | Bettongs, Potoroos and Rat-kangaroos |
| <i>Bettongia lesueur</i> | Burrowing Bettong |
| <i>Bettongia tropica</i> | Northern Bettong |
| <i>Hypsiprymnodon moschatus</i> | Musky Rat-kangaroo |
| <i>Potorous gilberti</i> | Gilbert's Potoroo |
| <i>Potorous longipes</i> | Long-footed Potoroo |
| Family Macropodidae | Kangaroos and Wallabies |
| <i>Dendrolagus</i> species | Tree Kangaroos |
| <i>Lagorchestes hirsutus</i> | Mala |
| <i>Lagostrophus fasciatus</i> | Banded Hare-wallaby |
| <i>Macropus irma</i> | Western Brush Wallaby |
| <i>Onychogalea fraenata</i> | Bridled Nailtail Wallaby |
| <i>Petrogale</i> species | Rock-wallabies |
| Order Notoryctemorphia | Marsupial Moles |
| All species | |

Exhibited Animals Protection Regulation 2005

Animals for which a section 24 permit is required

Schedule 2

Eutherian mammals (Subclass Eutheria)—placental mammals**Order Edentata****Sloths, Anteaters and Armadillos**

All species

Order Chiroptera**Flying-foxes and Insectivorous Bats**

All species

Order Primates**Lorises, Bush-babies, Lemurs, Tarsiers,
Marmosets, Tamarins, Monkeys and Apes**

All species

Order Carnivora**Dogs, Bears, Raccoons, Weasels, Mongooses,
Hyenas and Cats**All species except those listed in
Schedule 4 and *Mustela putorius*
(Domestic Ferret)**Order Pinnipedia****Seals, Sea-lions and Walruses**

All species

Order Proboscidea**Elephants**

All species

Order Perissodactyla**Asses, Horses, Zebras, Tapirs and Rhinoceroses**All species except those listed in
Schedule 4**Order Artiodactyla****Camels, Llamas, Pigs, Hippopotamuses, Deer,
Giraffes, Cattle, Sheep, Antelopes and
Peccaries**All species except those listed in
Schedule 4**Order Rodentia****Squirrels, Beavers, Gophers, Mice, Rats,
Porcupines and South American Cavy-like
Rodents**All species except those listed in
Schedule 4 and *Notomys alexis* and
*Pseudomys australis***Part 7 Hybrids**

A hybrid of which one parent is, or both parents are, of a species listed in Parts 1 to 6.

Exhibited Animals Protection Regulation 2005

Schedule 3 Exemptions—animals used for riding or racing

Schedule 3 Exemptions—animals used for riding or racing

(Clause 5 (1) (i))

| | |
|-----------------------------------|-----------------|
| <i>Bos taurus and Bos indicus</i> | Domestic Cattle |
| <i>Camelus dromedarius</i> | Arabian Camel |
| <i>Canis lupus familiaris</i> | Domestic Dog |
| <i>Capra hircus</i> | Domestic Goat |
| <i>Equus caballus</i> | Domestic Horse |
| <i>Equus asinus</i> | Domestic Donkey |
| <i>Equus caballus x asinus</i> | Domestic Mule |

Exhibited Animals Protection Regulation 2005

Unrestricted transfers

Schedule 4

Schedule 4 Unrestricted transfers

(Clause 32 (c))

Part 1 Reptiles (Class Reptilia)

| | |
|-------------------------------|------------------------------|
| Order Chelonia | Tortoises and Turtles |
| <i>Chelodina longicollis</i> | Common Long-necked Tortoise |
| Order Squamata | Lizards and Snakes |
| Sub-Order Sauria | Lizards |
| <i>Physignathus lesueurii</i> | Eastern Water Dragon |
| <i>Tiliqua scincoides</i> | Blue-tongued Lizard |
| Sub-Order Serpentes | Snakes |
| <i>Morelia spilota</i> | Carpet or Diamond Python |

Part 2 Birds (Class Aves)

Division 1 Native birds

| | |
|---------------------------------|--|
| Order Casuariiformes | Emus and Cassowaries |
| Family Dromaiidae | Emus |
| <i>Dromaius novaehollandiae</i> | Emu |
| Order Ciconiiformes | Hérons, Bitterns, Storks, Ibises, Spoonbills, Hammerheads and Flamingos |
| Family Ardeidae | Egrets and Herons |
| <i>Ardea ibis</i> | Cattle Egret |
| Family Threskiornithidae | Ibises and Spoonbills |
| <i>Threskiornis aethiopica</i> | Sacred Ibis |
| Order Anseriformes | Swans, Ducks and Geese |
| Family Anatidae | Swans, Ducks and Geese |
| <i>Dendrocygna eytoni</i> | Plumed Whistling-duck |
| <i>Chenonetta jubata</i> | Maned Duck |

Exhibited Animals Protection Regulation 2005

Schedule 4 Unrestricted transfers

| | |
|--------------------------------------|---|
| <i>Anas castanea</i> | Chestnut Teal |
| <i>Anas gibberifrons</i> | Grey Teal |
| <i>Anas superciliosa</i> | Black Duck |
| Order Galliformes | Pheasants, Quails, Grouse, Turkeys, Guineafowl, Megapodes (mound-nesters), Curassows and Guans |
| Family Phasianidae | Pheasants, Quail, Junglefowl and Turkeys |
| <i>Coturnix australis</i> | Brown Quail |
| <i>Coturnix chinensis</i> | King Quail |
| <i>Coturnix noturnix</i> | Stubble Quail |
| Order Gruiformes | Cranes, Trumpeters, Rails, Bustards, Button-quails, Seriemas, Mesites and Finfoots |
| Family Rallidae | Rails, Crakes, Moorhens and Coots |
| <i>Fulica atra</i> | Eurasian Coot |
| <i>Gallinula tenebrosa</i> | Dusky Moorhen |
| <i>Porphyrio porphyrio</i> | Purple Swamphen |
| Order Columbiformes | Pigeons and doves |
| Family Colombidae | Pigeons and doves |
| <i>Geopelia cuneata</i> | Diamond Dove |
| <i>Geopelia placida</i> | Peaceful Dove |
| Order Psittaciformes | Parrots and cockatoos |
| Family Cacatuidae | Cockatoos |
| <i>Cacatua galerita</i> | Sulphur-crested Cockatoo |
| <i>Cacatua roseicapilla</i> | Galah |
| <i>Cacatua sanguinea</i> | Little Corella |
| <i>Cacatua tenuirostris</i> | Long-billed Corella |
| <i>Nymphicus hollandicus</i> | Cockatiel |
| Family Psittacidae | Parrots |
| <i>Melopsittacus undulatus</i> | Budgerigar |
| <i>Platycercus elegans</i> | Crimson Rosella |
| <i>Platycercus eximius</i> | Eastern Rosella |
| <i>Trichoglossus chlorolepidotus</i> | Scaly-breasted Lorikeet |

Exhibited Animals Protection Regulation 2005

Unrestricted transfers

Schedule 4

| | |
|-------------------------------|---|
| Order Caprimulgiformes | Nightjars, Frogmouths, Potoos and Oilbirds |
| <i>Family Podargidae</i> | <i>Frogmouths</i> |
| <i>Podargus strigoides</i> | Tawny Frogmouth |
| Order Coraciiformes | Kingfishers, Rollers, Hornbills and Allies |
| <i>Family Alcedinidae</i> | <i>Kingfishers and Kookaburras</i> |
| <i>Dacelo novaeguineae</i> | Kookaburra |
| Order Passeriformes | Perching birds |
| <i>Family Artamidae</i> | <i>Woodswallows, Butcherbirds and Magpies</i> |
| <i>Gymnorhina tibicen</i> | Australian Magpie |
| <i>Family Passeridae</i> | <i>Finches and Mannikins</i> |
| <i>Taeniopygia guttata</i> | Zebra Finch |

Division 2 Non-indigenous birds

| | |
|----------------------------|--|
| Order Anseriformes | Swans, Ducks and Geese |
| <i>Family Anatidae</i> | <i>Swans, Ducks and Geese</i> |
| <i>Anas platyrhynchos</i> | Domestic Duck other than Mallard |
| <i>Anser</i> species | Domestic Goose |
| Order Galliformes | Pheasants, Quails, Grouse, Turkeys, Guineafowl, Megapodes (mound-nesters) Curassows and Guans |
| <i>Family Phasianidae</i> | <i>Pheasants, Quail, Junglefowl and Turkeys</i> |
| <i>Alectoris chukar</i> | Chukar Partridge |
| <i>Coturnix coturnix</i> | Japanese Quail |
| <i>Gallus gallus</i> | Domestic Chicken |
| <i>Meleagris gallopavo</i> | Domestic Turkey |
| <i>Numida meleagris</i> | Helmeted Guineafowl |
| <i>Pavo cristatus</i> | Blue (Indian) Peafowl |
| <i>Phasianus colchicus</i> | Ring-necked Pheasant |
| Order Columbiformes | Pigeons and doves |
| <i>Family Colombidae</i> | <i>Pigeons and doves</i> |
| <i>Columba livia</i> | Domestic Pigeon |

Exhibited Animals Protection Regulation 2005

Schedule 4 Unrestricted transfers

| | |
|-------------------------------|-------------------------|
| <i>Streptopelia decaocto</i> | Ring-necked Turtle Dove |
| <i>Streptopelia "risoria"</i> | Barbary Dove |
| Order Passeriformes | Perching birds |
| Family Fringillidae | Canaries |
| <i>Serinus canaria</i> | Domestic Canary |

Part 3 Mammals (Class Mammalia)**Division 1 Native mammals**

| | |
|---------------------------------|--|
| Order Diprotodontia | Koalas, Wombats, Possums, Gliders, Kangaroos, Wallabies and Rat-kangaroos |
| Family Phalangeridae | Brush-tail Possums, Cuscuses and Scaly-tailed Possums |
| <i>Trichosurus vulpecula</i> | Common Brush-tail Possum |
| Family Pseudocheiridae | Ring-tail Possums and Greater Glider |
| <i>Pseudocheirus peregrinus</i> | Common Ring-tail Possum |
| Family Macropodidae | Kangaroos and Wallabies |
| <i>Macropus eugenii</i> | Tammar Wallaby |
| <i>Macropus fuliginosus</i> | Western Grey Kangaroo |
| <i>Macropus giganteus</i> | Eastern Grey Kangaroo |
| <i>Macropus robustus</i> | Common Wallaroo |
| <i>Macropus rufogriseus</i> | Red-necked Wallaby |
| <i>Macropus rufus</i> | Red Kangaroo |
| <i>Thylogale billardieri</i> | Tasmanian Pademelon |
| <i>Thylogale stigmatica</i> | Red-legged Pademelon |
| <i>Thylogale thetis</i> | Red-necked Pademelon |
| <i>Wallabia bicolor</i> | Swamp Wallaby |

Exhibited Animals Protection Regulation 2005

Unrestricted transfers

Schedule 4

Division 2 Non-indigenous mammals

Eutherian mammals (Subclass Eutheria)—placental mammals

| | |
|-------------------------------|---|
| Order Carnivora | Dogs, Bears, Raccoons, Weasels, Mongooses, Hyenas and Cats |
| <i>Family Canidae</i> | <i>Dogs</i> |
| <i>Canis lupus familiaris</i> | Domestic Dog |
| <i>Family Felidae</i> | <i>Cats</i> |
| <i>Felis catus</i> | Domestic Cat |
| Order Perissodactyla | Asses, Horses, Zebras, Tapirs and Rhinoceroses |
| <i>Family Equidae</i> | <i>Asses and Horses</i> |
| <i>Equus asinus</i> | Domestic Donkey |
| <i>Equus caballus</i> | Domestic Horse |
| Order Artiodactyla | Camels, Llamas, Pigs, Hippopotamuses, Deer, Giraffes, Cattle, Sheep, Antelopes and Peccaries |
| <i>Family Bovidae</i> | <i>Antelopes, Cattle and Sheep</i> |
| <i>Bos taurus</i> | Domestic Cattle |
| <i>Bos indicus</i> | Domestic Cattle |
| <i>Capra hircus</i> | Domestic Goat |
| <i>Ovis aries</i> | Domestic Sheep |
| <i>Family Suidae</i> | <i>Pigs and Peccaries</i> |
| <i>Sus scrofa</i> | Domestic Pig |
| Order Lagomorpha | Rabbits |
| <i>Oryctolagus cuniculus</i> | Domestic Rabbit |
| Order Rodentia | Squirrels, Beavers, Gophers, Mice, Rats, Porcupines and South American Cavy-like Rodents |
| <i>Family Muridae</i> | <i>Rats and Mice</i> |
| <i>Cavia porcellus</i> | Guinea Pig |
| <i>Mus musculus</i> | House Mouse |
| <i>Rattus norvegicus</i> | Norwegian Rat |
| <i>Rattus rattus</i> | Black Rat |



New South Wales

Health Administration Regulation 2005

under the

Health Administration Act 1982

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Administration Act 1982*.

JOHN HATZISTERGOS, M.L.C.,
Minister for Health

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Health Administration Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation:

- (a) makes provision for the procedure of quality assurance committees and the manner in which those committees exercise their functions, and
- (b) makes provision in relation to root cause analysis teams for the purposes of Division 6C of Part 2 of the *Health Administration Act 1982*, and
- (c) prescribes certain establishments as prescribed establishments for the purposes of Division 6B of Part 2 of that Act, and
- (d) prescribes the circumstances in which the disclosure of information obtained in connection with the administration or execution of that Act (or certain other Acts relating to health administration) will not constitute an offence under that Act.

This Regulation is made under the *Health Administration Act 1982*, including the definition of **prescribed establishment** in section 20D, the definitions of **relevant health services organisation** and **reportable incident** in section 20L and sections 20K, 20P, 22 (e) and 34 (the general regulation-making power).

This Regulation comprises 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 Administration Regulation 2005

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Health Administration Regulation 2005

Clause 1

Preliminary

Part 1

Health Administration Regulation 2005

under the

Health Administration Act 1982

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Health Administration Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Health Administration Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Committee means a committee declared to be an approved quality assurance committee under section 20E of the Act.

the Act means the *Health Administration Act 1982*.

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

Clause 4 Health Administration Regulation 2005

Part 2 Quality assurance committees

Part 2 Quality assurance committees

4 Quorum

- (1) The quorum for a meeting of a Committee is to be:
 - (a) if there is an odd number of members—a majority of the number of members, or
 - (b) if there is an even number of members—one half of the number of members plus one.
- (2) Despite subclause (1), a meeting of a Committee at which a quorum is present may decide on a different number of members as the quorum for future meetings of the Committee.

5 Chairperson

Of the members of a Committee, one is to be elected as chairperson by a majority of those members.

6 Presiding member

- (1) The chairperson of a Committee or, in the absence of the chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Committee.
- (2) The person presiding at any meeting of a Committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

7 Voting

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

8 General procedure

The procedure for the calling of meetings of a Committee and for the conduct of business at those meetings is, subject to the Act, this Regulation and any rules of the prescribed establishment that established the Committee, to be as determined by that Committee.

9 Information available to the public

- (1) The Committee is to make the following information publicly available in the form of a written report:
 - (a) general details of the services that have been assessed and evaluated by the Committee during the period to which the report relates,

Health Administration Regulation 2005

Clause 10

Quality assurance committees

Part 2

-
- (b) any action taken (described in general terms) as a result of the assessment and evaluation process referred to in paragraph (a).
 - (2) The report is to be in such form as the Committee determines and may be in the same form as the report provided to the Minister under clause 10.
 - (3) The report is to be made at least annually or more often if the Committee so determines.
 - (4) The report is to be available for public inspection free of charge during normal business hours at the principal place of administration of the prescribed establishment that established the Committee.

10 Reports to the Minister

- (1) Each Committee must, on or before 1 September in each year, furnish a report to the Minister of its activities during the year ending on the preceding 30 June.
- (2) The Minister may request that the Committee report at more frequent intervals.
- (3) A report furnished to the Minister is to include the following information:
 - (a) the information required to be made publicly available under clause 9 and a statement indicating whether or not the requirements of that clause have been satisfied by inclusion of that information in the report,
 - (b) a statement indicating whether or not the relevant experience of the members of the Committee is appropriate to the services assessed or evaluated by the Committee (that is, whether the requirements of section 20E (2) (c) of the Act are satisfied in relation to that experience),
 - (c) a statement indicating whether or not the exercise of the functions of the Committee has been and will continue to be facilitated by the provision of immunities and protections afforded by Division 6B of Part 2 of the Act,
 - (d) a statement indicating whether or not it has been and will continue to be in the public interest to restrict the disclosure of information compiled by the Committee in the course of the exercise of the Committee's functions.

Clause 11 Health Administration Regulation 2005

Part 2 Quality assurance committees

11 Reports to prescribed establishments

- (1) At the completion of an assessment and evaluation of a particular service, a Committee is to submit a report to the prescribed establishment that provided the service and to the prescribed establishment that established the Committee.
- (2) The report is to include the following information:
 - (a) a description of the service assessed and evaluated,
 - (b) the general findings of the Committee,
 - (c) any specific recommendations made by the Committee, including details of how such recommendations are to be implemented if adopted.
- (3) If a Committee recommends that certain action be taken with respect to a particular service provided by a prescribed establishment and that recommendation is adopted by that prescribed establishment and by the prescribed establishment that established the Committee, the Committee is to monitor the implementation of that recommendation and report to both establishments on the progress and outcome of that implementation.

Health Administration Regulation 2005

Clause 12

Root cause analysis teams

Part 3

Part 3 Root cause analysis teams

12 Relevant health services organisation

- (1) Each of the following statutory health corporations is prescribed as a relevant health services organisation for the purpose of Division 6C (Root cause analysis teams) of Part 2 of the Act:
 - (a) Justice Health,
 - (b) The Royal Alexandra Hospital for Children.
- (2) Each of the following affiliated health organisations is prescribed as a relevant health services organisation for the purpose of Division 6C of Part 2 of the Act:
 - (a) Calvary Health Care Sydney Limited,
 - (b) Catholic Health Care Services Limited,
 - (c) Hope HealthCare Ltd,
 - (d) Karitane,
 - (e) Mercy Care Centre, Young,
 - (f) Mercy Health Care (Newcastle) Limited,
 - (g) Mercy Health Service Albury Limited,
 - (h) Royal Rehabilitation Centre Sydney,
 - (i) Royal Society for the Welfare of Mothers and Babies,
 - (j) Sacred Heart Hospice Limited,
 - (k) St Joseph's Hospital Ltd,
 - (l) St Vincent's Hospital Sydney Ltd,
 - (m) The Trustees of the Roman Catholic Church for the diocese of Lismore,
 - (n) Uniting Church in Australia.

Note. Section 62 (1) of the *Health Services Act 1997* provides that an organisation or institution whose name is included in column 1 of Schedule 3 to that Act is an affiliated health organisation in respect of any of its recognised establishments and recognised services (these being included in column 2 of Schedule 3 to that Act).

13 Reportable incident

For the purpose of Division 6C of Part 2 of the Act, a reportable incident means an incident of a type set out in Appendix B to the document entitled *NSW Department of Health Policy Directive PD2005_604 Incident Management Policy* published by the Department on 1 August 2005.

Clause 14 Health Administration Regulation 2005

Part 3 Root cause analysis teams

14 Disclosure of information

For the purposes of section 20P of the Act, a person who is or was a member of an RCA team may divulge or communicate information acquired by him or her as a member of an RCA team if the information is divulged or communicated to any of the following committees in connection with any research or investigation the committee is authorised to conduct under section 23 (1) of the Act:

- (a) Special Committee Investigating Deaths Under Anaesthesia (SCIDUA),
- (b) Special Committee Investigating Deaths Associated with Surgery (SCIDAWS),
- (c) The NSW Maternal and Perinatal Committee,
- (d) The NSW Mental Health Sentinel Events Review Committee.

Health Administration Regulation 2005

Clause 15

Miscellaneous

Part 4

Part 4 Miscellaneous

15 Prescribed establishments

Each of the following bodies is prescribed as a prescribed establishment (in addition to those specified in the definition of *prescribed establishment* in section 20D of the Act):

- (a) an establishment within the meaning of the *Private Hospitals and Day Procedure Centres Act 1988*,
- (b) a nursing home within the meaning of the *Public Health Act 1991*,
- (c) a pathology laboratory operating at premises approved as an accredited pathology laboratory under section 23DN of the *Health Insurance Act 1973* of the Commonwealth,
- (d) the bodies listed in Schedule 1 to this Regulation.

16 Disclosure of information

- (1) The object of this clause is to prescribe certain circumstances in which the disclosure of information obtained in connection with the administration or execution of the Act (or any other Act conferring or imposing responsibilities or functions on the Minister, Department, Director-General, Corporation or Foundation) will not constitute an offence under the Act.
- (2) For the purposes of section 22 (e) of the Act, the prescribed circumstances are that:
 - (a) the disclosure is approved in writing by the Director-General or the Chief Health Officer of the Department (in the case of information that is epidemiological data that does not identify any individual to whom the information relates) or by the Director-General (in any other case), and
 - (b) the disclosure is made in accordance with such approval.
- (3) The Director-General is not to approve under this clause the disclosure of information that may identify an individual to whom the information relates unless:
 - (a) the Director-General is satisfied that the individual consents to the disclosure of the information, or
 - (b) the Director-General is satisfied that the disclosure is urgently required in the interests of public health, or
 - (c) the information is required for the purpose of medical research and the Director-General is satisfied that the research is being conducted in accordance with any guidelines of the National Health and Medical Research Council that the Director-General

Clause 17 Health Administration Regulation 2005

Part 4 Miscellaneous

considers relevant, in particular any guidelines relating to the circumstances where the consent of an individual the subject of research need not be obtained and the protection of individual privacy.

- (4) An approval:
- (a) must describe the information authorised to be disclosed, and
 - (b) must name the person or body to whom disclosure of the information is authorised to be made, and
 - (c) may be given subject to conditions specified in it.

17 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Health Administration Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Health Administration Regulation 2005

Prescribed establishments

Schedule 1

Schedule 1 Prescribed establishments

(Clause 15 (d))

Australasian College of Dermatologists
Australasian College for Emergency Medicine
Australasian Epidemiological Association
Australasian Faculty of Occupational Medicine
Australasian Faculty of Rehabilitation Medicine
Australasian Society of Clinical Immunology and Allergy Inc.
Australian and New Zealand Association of Physicians in Nuclear Medicine
Australian and New Zealand College of Anaesthetists
Australian and New Zealand Intensive Care Society
Australian and New Zealand Society of Nephrology
Australian Association of Clinical Biochemists
Australian Association of Gerontology
Australian Association of Neurologists
Australian Association of Occupational Therapists Inc
Australian Association of Social Workers
Australian Association of Speech and Hearing
Australian Association of Surgeons
The Australian College of Clinical Psychologists
Australian College of Health Service Executives
The Australian College of Paediatrics
Australian Dental Association (NSW Branch)
Australian Faculty of Public Health Medicine
Australian Hospitals Association
Australian Institute of Health Surveyors
Australian Institute of Medical Laboratory Scientists
Australian Institute of Radiography
Australian Orthopaedic Association

Health Administration Regulation 2005

Schedule 1 Prescribed establishments

Australian Physiotherapy Association
Australian Postgraduate Federation in Medicine
The Australian Red Cross Society in respect of the Australian Red Cross Blood Service in New South Wales
Australian Society for Geriatric Medicine Inc
The Australian Society of Otolaryngology Head and Neck Surgery Limited
Australian Society of Plastic Surgeons Inc
Cardiac Society of Australia and New Zealand
Dietitians Association of Australia
Haematology Society of Australia and New Zealand
Health Information Management Association of Australia (NSW Branch)
Institute of Hospital Engineering, Australia
Institute of Nursing Administrators of New South Wales and A.C.T.
New South Wales Neurosurgical Association
N.S.W. Institute of Psychiatry
N.S.W. Institute of Trauma and Injury Management
N.S.W. Operating Theatre Association
Optometrists Association Australia (NSW Division)
Pharmaceutical Society of Australia (New South Wales) Ltd
Private Doctors of Australia
Public Health Association of Australia
Royal Australasian College of Medical Administrators
Royal Australasian College of Physicians
Royal Australasian College of Surgeons
Royal Australian and New Zealand College of Obstetricians and Gynaecologists
Royal Australian and New Zealand College of Ophthalmologists
Royal Australian and New Zealand College of Psychiatrists
The Royal Australian and New Zealand College of Radiologists
Royal Australian College of General Practitioners
The Royal College of Pathologists of Australia

Health Administration Regulation 2005

Prescribed establishments

Schedule 1

Society of Hospital Pharmacists of Australia
The Thoracic Society of Australia and New Zealand
Transplantation Society of Australia and New Zealand
Urological Society of Australasia



New South Wales

Heritage Regulation 2005

under the

Heritage Act 1977

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Heritage Act 1977*.

FRANK SARTOR, M.P.,
Minister for Planning

Explanatory note

The object of this Regulation is to repeal and remake the *Heritage Regulation 1999 (the 1999 Regulation)* without substantial alteration. This Regulation:

- (a) specifies the requirements of conservation management plans, including a requirement that conservation management plans be prepared in accordance with guidelines issued by the Director of the Heritage Office (*the Director*), and
- (b) specifies the requirements for heritage impact statements, including a requirement that heritage impact statements be prepared in accordance with guidelines issued by the Director, and
- (c) prescribes the fees for an application for an approval under section 60 of the *Heritage Act 1977 (the Act)*, an application for an excavation permit under section 140 of the Act and an application for an evidentiary certificate under section 167 of the Act, and
- (d) provides for the fees chargeable for the review of conservation management plans, and
- (e) prescribes the relevant form for a certificate of authority under section 148 of the Act to inspect buildings, works, relics, moveable objects and places, and
- (f) imposes minimum standards with respect to the maintenance and repair of buildings, works and relics that are listed on the State Heritage Register or within a precinct that is listed on that Register.

The main changes that this Regulation makes to the 1999 Regulation are as follows:

- (a) providing for an increase in fees for the applications referred to in paragraph (c) above,

Heritage Regulation 2005

Explanatory note

-
- (b) omitting Schedules (and associated provisions) containing the prescribed forms for the applications referred to in paragraph (c) above (because under the Act, the relevant forms are now as approved by the Minister),
 - (c) omitting a provision creating an offence for making false or misleading statements in or in connection with applications under the Act (because section 307A of the *Crimes Act 1900* now provides for an offence in relation to making false or misleading applications, the maximum penalty for which is 2 years imprisonment or 200 penalty units (currently \$22,000) or both),
 - (d) clarifying the operation of the provision dealing with fees for the review of conservation management plans, in particular, clarifying the plans in respect of which such fees are payable (being conservation management plans including preliminary or draft plans) and the persons who may be charged such fees (being affected owners (as defined in the Act) who request the review, or who request the Heritage Council's endorsement of the conservation management plan concerned, the review being for the purpose of that endorsement),
 - (e) providing that the fees payable for a review of a conservation management plan may include a component to cover the reasonable costs incurred by the Heritage Council in causing public notice of the review to be given.

This Regulation is made under the *Heritage Act 1977*, including section 165 (the general regulation-making power) and various other sections referred to in the Regulation.

Heritage Regulation 2005

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Heritage Regulation 2005

under the

Heritage Act 1977

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Heritage Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Heritage Regulation 1999* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

conservation management plan means a document that:

- (a) identifies the State or local heritage significance of a place, building, work, relic, moveable object or precinct, and
- (b) sets out policies and strategies for the retention of that significance, and
- (c) is prepared by the affected owner in accordance with guidelines for the preparation of conservation management plans issued from time to time by the Director.

heritage impact statement means a document that:

- (a) identifies the impact that an activity referred to in section 57 (1) (a)–(h) of the Act that is proposed to be carried out would have on the State or local heritage significance of a place, building, work, relic, moveable object, precinct or land affected by the proposed activity, and
- (b) sets out measures to minimise the impact of the proposed activity on that heritage significance, and
- (c) is prepared by the affected owner in accordance with guidelines for the preparation of heritage impact statements issued from time to time by the Director.

Heritage Regulation 2005

Clause 4

Preliminary

Part 1

the Act means the *Heritage Act 1977*.

4 Notes

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

Clause 5 Heritage Regulation 2005

Part 2 Fees and forms

Part 2 Fees and forms

5 Application fee for approval under section 60

- (1) For the purposes of section 60 of the Act, the prescribed fee for an application for approval to carry out an activity referred to in section 57 (1) (a)–(h) of the Act is:
 - (a) \$150, if the estimated cost of carrying out the activity is \$100,000 or less and the activity is in relation to an owner-occupied private house, or
 - (b) \$300, if the estimated cost of carrying out the activity is \$100,000 or less and the activity is not in relation to an owner-occupied private house, or
 - (c) \$400 plus \$25 for each \$100,000 (or part \$100,000) of the estimated cost of carrying out the activity, if the estimated cost of carrying out the activity is more than \$100,000 but no more than \$500,000, or
 - (d) \$500 plus \$100 for each \$100,000 (or part \$100,000) of the estimated cost of carrying out the activity, if the estimated cost of carrying out the activity is more than \$500,000 but no more than \$1,000,000, or
 - (e) \$1,000 plus \$50 for each \$100,000 (or part \$100,000) of the estimated cost of carrying out the activity, if the estimated cost of carrying out the activity is more than \$1,000,000 but no more than \$2,000,000, or
 - (f) \$1,500 plus \$33.33 for each \$100,000 (or part \$100,000) of the estimated cost of carrying out the activity, if the estimated cost of carrying out the activity is more than \$2,000,000 but no more than \$5,000,000, or
 - (g) \$2,500 plus \$10 for each \$100,000 (or part \$100,000) of the estimated cost of carrying out the activity, if the estimated cost of carrying out the activity is more than \$5,000,000 but no more than \$10,000,000, or
 - (h) \$3,000 plus \$10 for each \$100,000 (or part \$100,000) in excess of \$10,000,000, if the estimated cost of carrying out the activity is more than \$10,000,000.
- (2) The estimated cost of carrying out an activity is the reasonable cost (estimated on the basis of prices current when the application is made) of carrying out the activity as referred to in the application.

Heritage Regulation 2005

Clause 6

Fees and forms

Part 2

6 Application fee for excavation permit under section 140

- (1) For the purposes of section 140 (2) of the Act, the prescribed fee for an application for an excavation permit is:
 - (a) \$100, if the estimated cost of carrying out the development to which the excavation relates is \$100,000 or less, and the development is in relation to an owner-occupied private house, or
 - (b) \$250, if the estimated cost of carrying out the development to which the excavation relates is \$100,000 or less, and the development is not in relation to an owner-occupied private house, or
 - (c) \$500, plus \$10 for each \$100,000 in excess of \$100,000, if the estimated cost of carrying out the development to which the excavation relates is more than \$100,000.
- (2) The estimated cost of carrying out a development is the reasonable cost (estimated on the basis of prices current when the application is made) of carrying out the development as referred to in the application.

7 Certificate of authority under section 148

For the purposes of section 148 (1) of the Act, the prescribed form for a certificate of authority is Form 1 in Schedule 1.

8 Application fee for evidentiary certificate under section 167

For the purposes of section 167 (1) of the Act, the prescribed fee for a certificate under that section is \$100.

9 Fee for certain reviews of conservation management plans

- (1) The Director may, from time to time, determine the fees payable for the review of conservation management plans.
- (2) The Director may determine different fees for the review of different conservation management plans, having regard to the costs incurred in conducting the review (whether the review is conducted by members of staff of the Heritage Office or by persons engaged for that purpose by the Director).
- (3) In determining the fees payable under this clause, the Director may include a component to cover the reasonable costs (including any administrative costs) incurred by the Heritage Council in causing public notice of the review of a conservation management plan to be given.
- (4) The Heritage Council may charge an affected owner the fee determined under this clause for the review of a conservation management plan if:
 - (a) the review is requested by the affected owner, or

Clause 9 Heritage Regulation 2005

Part 2 Fees and forms

- (b) the review is for the purpose of the Heritage Council's endorsement of the plan which (endorsement) is requested by the affected owner.
- (5) Subject to subclause (6), a request for a review of a conservation management plan in respect of which a fee is payable under this clause must be accompanied by the applicable fee.
- (6) If the fees payable under this clause include a component referred to in subclause (3), that component is payable within 30 days after written notification of the amount due for the component is given to the affected owner concerned.
- (7) A fee is not payable under this clause for the review of a conservation management plan that is undertaken in the process of determining an application for an approval to carry out an act, matter or thing referred to in section 57 (1) of the Act.
- (8) In subclauses (1)–(5), a reference to a conservation management plan includes a reference to a preliminary or draft conservation management plan.

Heritage Regulation 2005

Clause 10

Minimum standards of maintenance and repair

Part 3

Part 3 Minimum standards of maintenance and repair

10 Minimum standards imposed

- (1) Pursuant to section 118 of the Act, the standards set out in this Part are imposed as minimum standards with respect to the maintenance and repair of a building, work or relic that is listed or within a precinct that is listed on the State Heritage Register.
- (2) Nothing in this Part affects any requirement for the approval under Part 4 of the Act of any aspect of maintenance or repair.

Note. Section 119 of the Act requires the owner of the building, work or relic to ensure that it is maintained and repaired to standards that are not less than the minimum standards imposed by this Part.

11 Inspection

- (1) The building, work or relic, and its curtilage or site, must be inspected to identify maintenance and repairs that are needed to ensure compliance with section 119 of the Act in respect of the standards set out in clauses 12–17.
- (2) The inspection must be carried out at least once every 12 months in the case of the standards set out in clauses 12–16 and at least once every 3 years in the case of the standards set out in clause 17.

Note. The maintenance and repair requirements of section 119 of the Act are ongoing and are not limited to matters identified by an inspection carried out for the purposes of this clause.

- (3) The inspection is to be carried out by a person with expertise and experience appropriate to the nature of the item concerned.
- (4) In the case of a relic kept in a repository or as part of a collection, the inspection is to extend to the conditions under which the relic is kept.
- (5) In the case of a relic that is attached to or forms part of land, the inspection is to include an assessment of the stability of the site of the relic.

12 Weather protection

- (1) The following systems or components, if present, must be maintained and repaired (including by being cleaned and secured) to the standard necessary to ensure a reasonable level of protection for the building, work or relic, and its curtilage or site, against damage or deterioration due to weather:
 - (a) surface and sub-surface drainage systems,
 - (b) roof drainage systems, including gutters, rainwater heads, down-pipes and stormwater drainage systems,

Clause 13 Heritage Regulation 2005

Part 3 Minimum standards of maintenance and repair

-
- (c) water storages, dams, ponds, retention basins, watercourses, batters, levee banks, sea walls and other flood and erosion mitigation measures,
 - (d) roofs, walls, doors and windows (including the glass components of doors and windows) and other components intended to exclude sun, rain, wind, hail, snow or other weather elements, including their security against the effects of high winds,
 - (e) systems or components which might be at risk of damage or dislodgment by high winds, including damage by falling trees and branches, tidal inundation or wave action,
 - (f) systems and components such as damp proof courses, flashings, ventilation systems and other measures intended to prevent the ingress of water or dampness or to reduce its effects,
 - (g) lightning conductors,
 - (h) any other system or component designed to protect the building, work or relic or its curtilage or site against damage or deterioration due to weather.
- (2) Doors and windows of a building may, as an alternative to being repaired, be boarded up, but only:
 - (a) if the building is unoccupied, or
 - (b) as a short term measure pending repair.
 - (3) If an opening to a building is designed or intended to have a door, window or other closure in place and does not have the door, window or other closure in place, the opening must be boarded up.

13 Fire protection

- (1) Vegetation, rubbish and any other material that could create a fire hazard for the building, work or relic is to be removed and not permitted to accumulate.

Note. Vegetation and other items can be of heritage significance, and their removal may require the approval of the Heritage Council or the local council.
- (2) The following systems or components, if present, must be maintained and repaired to the standard necessary to ensure a reasonable level of protection for the building, work or relic against damage or destruction by fire:
 - (a) lightning conductors,
 - (b) fire detection and control systems, including smoke and heat detectors and fire sprinkler systems and including associated alarm and communication systems,
 - (c) stores of inflammable materials or rubbish,

Heritage Regulation 2005

Clause 14

Minimum standards of maintenance and repair

Part 3

-
- (d) building services such as electricity, gas and heating systems,
 - (e) any other system or component designed to protect the building, work or relic from damage or destruction by fire.

14 Additional fire protection for unoccupied buildings

- (1) The following additional fire protection measures must be taken for the protection of a building that is to be unoccupied for a continuous period of 60 days or more:
 - (a) heating or gas services must be shut down, gas or oil supply to those services must be turned off at the mains or other point of connection to supply, and portable gas or oil storages must be removed,
 - (b) permanent or temporary smoke detection systems must be installed with associated communication systems connected to the fire brigade in the district and, if the building will be unoccupied for a period of 6 months or more, provided with a permanent power supply.
- (2) This clause does not apply to any outbuilding within the curtilage or site of a building unless the outbuilding has been constructed or adapted for use as a dwelling.
- (3) The use of a building for storage of goods or materials does not constitute occupation of the building for the purposes of this clause if the building ordinarily has another use or is a building of a kind not ordinarily used for storage.

15 Security

- (1) Fencing or surveillance systems appropriate to the nature and location of the building, work or relic must be installed to secure it and its site and prevent vandalism.
- (2) The following systems or components, if present, must be maintained and repaired to the standard necessary to ensure a reasonable level of security for the building, work or relic:
 - (a) boundary and internal fences and gates, including associated locking mechanisms,
 - (b) in the case of a building, the walls, roof and other building elements, doors, windows and other closures, including glazing and associated locking and latching mechanisms,
 - (c) any electronic surveillance or alarm system installed on the site,
 - (d) any other system or component designed to ensure the security of the building, work or relic.

| | |
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| Clause 16 | Heritage Regulation 2005 |
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- (3) Doors and windows of a building may, as an alternative to being repaired, be boarded up, but only:
 - (a) if the building is unoccupied, or
 - (b) as a short term measure pending repair.
- (4) If an opening to a building is designed or intended to have a door, window or other closure in place and does not have the door, window or other closure in place, the opening must be boarded up.

16 Additional security measures for unoccupied buildings

- (1) The following additional security measures must be taken for the protection of a building that is to be unoccupied for a continuous period of 60 days or more:
 - (a) if an electronic surveillance or alarm system is installed, the system must be connected to a Police Station or a commercial security provider,
 - (b) if no electronic surveillance or alarm system is installed, arrangements must be in place for regular surveillance of the building, work or relic, as appropriate to its nature and location.
- (2) This clause does not apply to any outbuilding within the curtilage or site of a building unless the outbuilding has been constructed or adapted for use as a dwelling.
- (3) The use of a building for storage of goods or materials does not constitute occupation of the building for the purposes of this clause if the building ordinarily has another use or is a building of a kind not ordinarily used for storage.

17 Essential maintenance and repair

- (1) Essential maintenance and repair of a building, work or relic (being maintenance and repair necessary to prevent serious or irreparable damage or deterioration) must be carried out whenever necessary.
- (2) Essential maintenance and repair includes:
 - (a) the taking of measures (including inspection) to control pests such as termites, rodents, birds and other vermin, and
 - (b) the taking of measures to maintain a stable environment for in-situ archaeological relics.
- (3) The requirement for essential maintenance and repair extends to (but is not limited to) the following:
 - (a) foundations, footings and supporting structure of any building, work or relic,

Heritage Regulation 2005

Clause 18

Minimum standards of maintenance and repair

Part 3

-
- (b) structural elements such as walls, columns, beams, floors, roofs and roof structures, and verandah or balcony structures,
 - (c) exterior and interior finishes and details,
 - (d) systems and components (such as ventilators or ventilation systems) intended to reduce or prevent damage due to dampness,
 - (e) fixtures, fittings and moveable objects attached to the building, work or relic, or to its curtilage or site,
 - (f) landscape elements on the site of and associated with the building, work or relic, including vegetation, garden walls, paths, fences, statuary, ornaments and the like.

18 Conservation management plans

A conservation management plan endorsed by the Heritage Council for a building, work or relic may:

- (a) provide that a standard set out in this Part does not apply to the building, work or relic (in which case the standard does not apply to it), or
- (b) impose additional standards of maintenance and repair for the building, work or relic (in which case those standards are imposed as minimum standards with respect to the maintenance and repair of the building, work or relic, in addition to those set out in this Part).

Clause 19 Heritage Regulation 2005

Part 4 Miscellaneous

Part 4 Miscellaneous

19 Savings provision

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

Heritage Regulation 2005

Form

Schedule 1

Schedule 1 Form

Form 1 Certificate of authority

(Clause 7)

(Heritage Act 1977, section 148)

Name:

I certify that the above-named person has been authorised, pursuant to section 148 (1) of the *Heritage Act 1977*, to carry out inspections of buildings, works, relics, moveable objects and places for the purposes of that Act.

Signature:

Minister for Infrastructure and Planning.



New South Wales

Home Building Amendment (Insurance Exemptions) Regulation 2005

under the

Home Building Act 1989

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

JOHN DELLA BOSCA, M.L.C.,
Minister for Commerce

Explanatory note

The object of this Regulation is to exempt contractors doing residential building work that is funded by the Teacher Housing Authority of New South Wales from certain insurance requirements under the *Home Building Act 1989*.

This Regulation is made under the *Home Building Act 1989*, including section 140 (the general regulation-making power).

Clause 1 Home Building Amendment (Insurance Exemptions) Regulation 2005

Home Building Amendment (Insurance Exemptions) Regulation 2005

under the

Home Building Act 1989

1 Name of Regulation

This Regulation is the *Home Building Amendment (Insurance Exemptions) Regulation 2005*.

2 Amendment of Home Building Regulation 2004

The *Home Building Regulation 2004* is amended by inserting after clause 76:

76A Exemption from insurance for certain work funded through Teacher Housing Authority of NSW

A holder of a contractor licence who does, or enters into a contract to do, residential building work that is funded by the Teacher Housing Authority of New South Wales is exempt from the requirements of Part 6 of the Act in respect of that work.



New South Wales

Home Building Amendment (Insurance Claims) Regulation 2005

under the

Home Building Act 1989

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

JOHN DELLA BOSCA, M.L.C.,
Minister for Commerce

Explanatory note

The object of this Regulation is to amend the *Home Building Regulation 2004* as follows:

- (a) to generally require a home building insurance contract entered into on or after 1 September 2005 to provide that the insurer is taken to have accepted liability for an insurance claim if written notice of the insurer's decision is not given to the beneficiary within 90 days of the claim being lodged,
- (b) to make a consequential amendment.

This Regulation is made under the *Home Building Act 1989*, including sections 102 and 140 (the general regulation-making power).

Clause 1 Home Building Amendment (Insurance Claims) Regulation 2005

Home Building Amendment (Insurance Claims) Regulation 2005

under the

Home Building Act 1989

1 Name of Regulation

This Regulation is the *Home Building Amendment (Insurance Claims) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

3 Amendment of Home Building Regulation 2004

The *Home Building Regulation 2004* is amended as set out in Schedule 1.

Home Building Amendment (Insurance Claims) Regulation 2005

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 62A

Insert after clause 62:

62A Time within which insurer taken to have accepted claim

(1) **Provision to be contained in insurance contract**

An insurance contract entered into on or after 1 September 2005 must contain a provision to the effect that an insurer is taken to have accepted liability for an insurance claim if written notice of the insurer's decision in relation to the claim is not given to the beneficiary within:

- (a) 90 days of the lodging of the claim with the insurer, or
- (b) such further time as may be agreed between the beneficiary and the insurer.

(2) **Existing stock**

Despite subclause (1), an insurance contract that does not contain the provision referred to in that subclause may be entered into on or after 1 September 2005 if the form on which that contract is printed was in existence before 1 September 2005.

- (3) Such a contract is taken to contain the provision referred to in subclause (1).

[2] Clause 64 Refusal of insurance claims

Insert at the end of the clause:

- (2) This clause does not apply to an insurance claim made in relation to an insurance contract entered into on or after 1 September 2005.



New South Wales

Independent Commission Against Corruption Regulation 2005

under the

Independent Commission Against Corruption Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Independent Commission Against Corruption Act 1988*.

MORRIS IEMMA, M.P.,
Premier

Explanatory note

The object of this Regulation is to remake, without any changes in substance, the provisions of the *Independent Commission Against Corruption Regulation 2000*, which is to be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation makes provision with respect to:

- (a) the security checks to be made in relation to the staff of the Independent Commission Against Corruption and associated persons, and
- (b) the disclosure by its staff and associated persons of their financial interests.

The new Regulation also prescribes certain bodies as public authorities, and certain persons as the principal officers of public authorities, for the purposes of the Act.

This Regulation is made under the *Independent Commission Against Corruption Act 1988*, including sections 3, 11, 110 and 117 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature.

Independent Commission Against Corruption Regulation 2005

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Independent Commission Against Corruption Regulation 2005

under the

Independent Commission Against Corruption Act 1988

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Independent Commission Against Corruption Regulation 2005*.

Note. This Regulation replaces the *Independent Commission Against Corruption Regulation 2000*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

2 Commencement

This Regulation commences on 1 September 2005.

3 Definitions

(1) In this Regulation:

approved means approved for the time being by the Commissioner.

associated person is defined in clause 4.

dependent child of a person means anyone who is under the age of 18 years and is a child of the person or of the person's spouse.

financial interest, in relation to an officer of the Commission or an applicant for a position as an officer of the Commission, means:

- (a) any pecuniary interest or other matter, referred to in section 110 (a) (i)–(xi) of the Act, that relates to the officer or applicant, or
- (b) any such interest or other matter that relates to a person who is associated with the officer or applicant.

spouse means:

- (a) a husband or wife, or
- (b) the other party to a de facto relationship within the meaning of the *Property (Relationships) Act 1984*,

but where more than one person would so qualify as a spouse, means only the last person so to qualify.

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| Clause 4 | Independent Commission Against Corruption Regulation 2005 |
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the Act means the *Independent Commission Against Corruption Act 1988*.

- (2) The pecuniary interests or other matters referred to in paragraph (b) of the definition of **financial interest** in subclause (1) are specified for the purposes of section 110 (a) (xii) of the Act.
- (3) Notes included in this Regulation do not form part of this Regulation.

4 Associated persons

- (1) In this Regulation, a reference to a person who is associated with an officer of the Commission, or an applicant for a position as an officer of the Commission, is a reference to:
 - (a) in the case of an officer or applicant who is an individual, any of the individual's family or business associates, or
 - (b) in the case of an officer or applicant that is a company engaged under section 104 (6) of the Act:
 - (i) any of the company's key personnel, or
 - (ii) any of those key personnel's family or business associates, or
 - (iii) any of the company's related bodies corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth).
- (2) For the purposes of this clause:
 - (a) the following persons are an individual's family associates:
 - (i) the individual's spouse,
 - (ii) the individual's dependent children,
 - (iii) such other members of the individual's household or family as the Commissioner may specify in respect of a particular individual or class of individuals, and
 - (b) the following persons are an individual's business associates:
 - (i) the individual's employer,
 - (ii) any such employer's key personnel (in the case of an employer that is a company),
 - (iii) the individual's partners in any partnership of which the individual is a member,
 - (iv) such employees of any such partnership, and such other persons having contractual relationships with the partnership, as the Commissioner may specify in respect of a particular partnership or class of partnerships,
 - (v) the individual's employees,

Independent Commission Against Corruption Regulation 2005

Clause 4

Preliminary

Part 1

-
- (vi) such other persons having contractual relationships with the individual as the Commissioner may specify in respect of a particular individual or class of individuals, and
 - (c) the following persons are a company's key personnel:
 - (i) the directors of the company,
 - (ii) the secretary of the company,
 - (iii) such officers or employees of the company, such shareholders in the company and such other persons having contractual relationships with the company as the Commissioner may specify in respect of a particular company or class of companies.

| | |
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Part 2 Security

5 Disclosure of certain information

- (1) The Commissioner may at any time require an officer of the Commission, or an applicant for a position as an officer of the Commission, to furnish to the Commissioner a statement of personal particulars, in the approved form, in relation to:
 - (a) the officer or applicant, or
 - (b) any other person who is associated with the officer or applicant.
- (2) The statement must be accompanied by an authority for the release of information, and a consent to conduct inquiries, each in the approved form and each duly executed by the person to whom the statement relates.
- (3) An officer or applicant who is required to furnish to the Commissioner one or more statements under this clause must, when furnishing that statement or those statements, also furnish the Commissioner with a statutory declaration, in the approved form, concerning the officer's or applicant's association (if any) with known or reputed criminals.

6 Production of certain documents

- (1) The Commissioner may require an officer of the Commission, or an applicant for a position as an officer of the Commission, to furnish to the Commissioner such of the documents referred to in subclause (2) or (3) relating to:
 - (a) the officer or applicant, or
 - (b) any other person who is associated with the officer or applicant, as are in the possession of the officer or applicant or to which the officer or applicant has an immediate right of possession.
- (2) The documents to be furnished in the case of an individual are as follows:
 - (a) a birth certificate or a duly certified extract of a birth certificate,
 - (b) a marriage certificate or a duly certified extract of a marriage certificate,
 - (c) a current passport,
 - (d) a current driver's licence,
 - (e) a duly certified copy of any registered deed by which the individual has formally changed the individual's name,
 - (f) a certificate of naturalisation,
 - (g) a certificate of discharge from the Defence Force,

Independent Commission Against Corruption Regulation 2005

Clause 7

Security

Part 2

-
- (h) a certificate evidencing the individual's educational, professional or trade qualifications,
 - (i) the most recent income tax return lodged by, and the most recent income tax assessment issued in relation to, the individual.
- (3) The documents to be furnished in the case of a company or partnership engaged under section 104 (6) of the Act are as follows:
- (a) a copy of the constitution of the company or of the agreement establishing the partnership,
 - (b) the most recent annual report of the company or partnership,
 - (c) the most recent audited financial statement in relation to the company or partnership,
 - (d) the most recent income tax return lodged by, and the most recent income tax assessment issued in relation to, the company or the several partners in the partnership.

7 Fingerprints to be furnished

- (1) The Commissioner may require an officer of the Commission, or an applicant for a position as an officer of the Commission, to furnish to the Commissioner an imprint of the officer's or applicant's fingerprints.
- (2) If the officer or applicant is a company or partnership engaged or to be engaged under section 104 (6) of the Act, the Commissioner may require the officer or applicant to furnish to the Commissioner an imprint of the fingerprints of:
 - (a) any specified associate of the company, or
 - (b) any specified associate of a partner in the partnership.
- (3) Fingerprint imprints obtained by the Commission from an applicant, or an associate of an applicant, are to be destroyed within 6 months after the application is determined unless, within that time, the applicant becomes an officer of the Commission.
- (4) Fingerprint imprints obtained by the Commission from an officer, or an associate of an officer, are to be destroyed within 6 months after the officer ceases to be an officer.
- (5) In the case of an officer:
 - (a) who is under investigation by the Commission when the officer ceases to be an officer, or
 - (b) who becomes subject to such an investigation within 6 months after ceasing to be an officer,

| | |
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| Part 2 | Security |

the Commission may retain the fingerprint imprints of the officer, or of any associate of the officer, for such further period as is necessary to complete the investigation and any legal proceedings arising from the investigation.

8 Changes in personal particulars to be notified

An officer of the Commission who becomes aware of any significant change in the personal particulars in relation to:

- (a) the officer, or
- (b) any person who is associated with the officer and in respect of whom the officer has previously furnished a statement of personal particulars under this Part,

must immediately furnish a statement of that change, in the approved form, to the Commissioner.

9 Conflict of interests to be notified

If an officer of the Commission becomes aware of any conflict of interest that has arisen, or that could be seen as having arisen, between the officer's duties as an officer and the officer's private interests, the officer must immediately notify the Commissioner of that fact.

Independent Commission Against Corruption Regulation 2005

Clause 10

Disclosure of financial interests

Part 3

Part 3 Disclosure of financial interests

10 Disclosure of certain financial information

- (1) On becoming an officer of the Commission, the officer must furnish to the Commissioner a statement of financial interests, in the approved form, in relation to the officer.
- (2) Without limiting subclause (1), the Commissioner may at any time require an officer of the Commission, or an applicant for a position as an officer of the Commission, to furnish to the Commissioner a statement of financial interests, in the approved form, in relation to:
 - (a) the officer or applicant, or
 - (b) any other person who is associated with the officer or applicant.

11 Changes in financial interests to be notified

An officer of the Commission who becomes aware of any significant change in the financial interests in relation to:

- (a) the officer, or
- (b) any person who is associated with the officer and in respect of whom the officer has previously furnished a statement of financial interests under this Part,

must immediately furnish a statement of that change, in the approved form, to the Commissioner.

12 Exemptions from this Part

The Commissioner:

- (a) may at any time exempt any particular officer or class of officers from the requirements of this Part, and
- (b) may at any time impose conditions on any such exemption, and
- (c) may at any time revoke any such exemption or any condition to which any such exemption is subject.

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| Part 4 | Miscellaneous |

Part 4 Miscellaneous

13 Further information

The Commissioner may require an officer of the Commission, or an applicant for a position as an officer of the Commission, to furnish to the Commissioner such further information as the Commissioner may specify in respect of any matter disclosed to the Commissioner by the officer or applicant for the purposes of this Regulation.

14 Statutory declarations

A statutory declaration that, by or under this Regulation, is required to be made by a company or partnership engaged or to be engaged under section 104 (6) of the Act must be made on behalf of the company or partnership by such of the directors or employees of the company, or by such of the partners in or employees of the partnership, as the Commissioner may direct.

15 Compliance with Regulation a condition of employment

- (1) It is a condition of an officer's employment or engagement with the Commission that the officer complies with the requirements of this Regulation.
- (2) Failure to comply with any such requirement is sufficient ground for terminating the officer's employment or engagement.
- (3) This clause has effect despite any other condition of the officer's conditions of employment or engagement.
- (4) A person does not fail to comply with the requirements of this Regulation merely because the person fails to disclose matters of which the person is not aware.

16 Seal of the Commission

The seal of the Commission must be kept in the custody of the Commissioner and affixed to a document of the Commission in the presence of the Commissioner, or of an Assistant Commissioner, and of one other member of staff of the Commission.

17 Identity cards

The Commissioner may issue identity cards, in the approved form, to officers of the Commission.

Independent Commission Against Corruption Regulation 2005

Clause 18

Miscellaneous

Part 4

18 Definition of “public authority”

For the purposes of paragraph (g) of the definition of *public authority* in section 3 (1) of the Act, the following bodies are declared to be bodies within that definition:

- (a) a statutory health corporation within the meaning of the *Health Services Act 1997*,
- (b) an affiliated health organisation within the meaning of the *Health Services Act 1997*.

19 Principal officers of public authorities

For the purposes of section 11 (5) of the Act:

- (a) the general manager of the council of a local government area is prescribed as the principal officer of the council, and
- (b) the chief executive of an area health service within the meaning of the *Health Services Act 1997* is prescribed as the principal officer of the area health service, and
- (c) the Chief Executive Officer of the Ambulance Service Board is prescribed as the principal officer of the Ambulance Service, and
- (d) the chief executive of a statutory health corporation within the meaning of the *Health Services Act 1997* is prescribed as the principal officer of the corporation, and
- (e) the person who is responsible to the governing body of an affiliated health organisation within the meaning of the *Health Services Act 1997* for the management of its recognised establishments and recognised services is prescribed as the principal officer of the organisation.

20 Saving

Any act, matter or thing that, immediately before the repeal of the *Independent Commission Against Corruption Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

under the

Local Government Act 1993

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

KERRY HICKEY, M.P.,
Minister for Local Government

Explanatory note

The object of this Regulation is to remake and consolidate, with several changes, the *Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995* and the *Local Government (Manufactured Home Estates and Manufactured Homes) Regulation 1995*. Those Regulations will be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation relates to the following matters under the *Local Government Act 1993*:

- (a) the granting of approvals to operate manufactured home estates, caravan parks and camping grounds,
- (b) requirements concerning manufactured home estates, caravan parks and camping grounds (including land and site requirements, setbacks, roads and utility services), compliance with which is a condition of such an approval,
- (c) requirements concerning manufactured homes, relocatable homes and associated structures (including requirements as to design, construction and installation), compliance with which exempts the need for an approval to install a manufactured home or associated structure in a manufactured home estate,
- (d) requirements concerning caravans, tents and annexes, compliance with which is a condition of approval of their installation.

This Regulation refers to the *Australian Model Code for Residential Development* or *AMCORD—A National Resource Document for Residential Development*, the *Building Code of Australia*, the *Code of Practice for Electricity Supply to Long-term Residents of Caravan Parks*, the *Floodplain Development Manual: the management of flood liable land*, the *NSW Code of Practice—Plumbing and Drainage*, the *Australian Drinking Water Guidelines* and various Australian Standards.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Explanatory note

This Regulation is made under the *Local Government Act 1993*, including sections 98 (2) (concerning conditions of approval) and 748 (the general regulation-making power).

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

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Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

under the

Local Government Act 1993

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005, except for clauses 9 (4) and 74 (7), which commence on 1 March 2006.

Note. This Regulation replaces the *Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995* and the *Local Government (Manufactured Home Estates and Manufactured Homes) Regulation 1995* which are repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Object

The object of this Regulation is to provide opportunities for affordable alternatives in short-term and long-term accommodation:

- (a) by continuing in force (in amended form) the standards for the design of manufactured home estates, caravan parks and camping grounds established by the former Regulations, and
- (b) by continuing in force (in amended form) the standards for the design and construction of manufactured homes and other moveable dwellings and for their siting established by the former Regulations, and
- (c) by continuing in force (in amended form) the standards to promote the health, safety and amenity of the occupiers of manufactured homes and other moveable dwellings established by the former Regulations.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 4

Preliminary

Part 1

4 Definitions

(1) In this Regulation:

access road means a road (other than a public road) situated within a manufactured home estate, a caravan park or a camping ground.

AMCORD means the *Australian Model Code for Residential Development*, which is contained in the document entitled *AMCORD—A National Resource Document for Residential Development*, as published in 1995 by the Commonwealth Department of Housing and Regional Development.

annexe means a moveable dwelling that:

- (a) is an attachment to a relocatable home or caravan, and
- (b) is used as an extension of the habitable area of the relocatable home or caravan, and
- (c) is capable of being erected or removed within 24 hours.

approval:

- (a) in Subdivision 2 of Division 2 of Part 2 and Subdivision 2 of Division 2 of Part 3—means an approval of the kind referred to in item 1 of Part A of the Table to section 68 of the Act, and
- (b) in the rest of Part 2—means an approval of the kind referred to in item 3 of Part F of that Table, and
- (c) in the rest of Part 3—means an approval of the kind referred to in item 2 of Part F of that Table.

Note. The terms **associated structure** and **building** are defined in the Act.

Building Code of Australia has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

bush fire prone land, in relation to an area, means land recorded for the time being as bush fire prone land on a bush fire prone land map for the area.

bush fire prone land map for an area means a map for the area certified as referred to in section 146 (2) of the *Environmental Planning and Assessment Act 1979*.

camp site means an area of land within a camping ground on which a campervan or tent may be installed or, in the case of a primitive camping ground, on which a campervan, tent or caravan may be installed, and that is designated as a camp site by the approval for the camping ground.

campervan means a moveable dwelling (other than a caravan) that is designed so as to be registrable as a motor vehicle under the *Road Transport (Vehicle Registration) Act 1997*, and includes a camper trailer.

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| Clause 4 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 1 | Preliminary |

caravan means a moveable dwelling that is designed so as to be registrable as a trailer under the *Road Transport (Vehicle Registration) Act 1997*, but does not include a camper trailer.

certificate of completion means a certificate issued by a council under clause 69.

community amenity means a space or facility that is required (by this Regulation or otherwise) to be provided within a manufactured home estate, caravan park or camping ground that is used or intended to be used:

- (a) for the purposes of administration or servicing of that manufactured home estate, caravan park or camping ground, or
- (b) for recreational or other communal purposes serving the interests of the occupiers of manufactured homes within a manufactured home estate or moveable dwellings within a caravan park or camping ground,

but does not include any car parking space.

community building means a building (such as a shower block, toilet block or laundry block) that is used or intended to be used in connection with a community amenity, and includes a building that is to be used as a manager's or caretaker's office or residence.

community map:

- (a) in relation to a manufactured home estate—means a scale map that accurately shows the road reserves, the community amenities and the dwelling sites within the manufactured home estate, and
- (b) in relation to a caravan park or camping ground—means a scale map that accurately shows:
 - (i) the access roads, community amenities and community buildings within the caravan park or camping ground, and
 - (ii) the number, size, location and dimensions of dwelling sites or camp sites within the caravan park or camping ground, and
 - (iii) in relation to a dwelling site or camp site within the caravan park or camping ground, the particular off-site parking space or spaces (if any) designated for use by the occupier of the dwelling site or camp site.

compliance plate means a compliance plate referred to in clause 67 or 159.

Local Government (Manufactured Home Estates, Caravan Parks, Camping
Grounds and Moveable Dwellings) Regulation 2005

Clause 4

Preliminary

Part 1

dwelling site:

- (a) in relation to a manufactured home estate—means an area of land within the manufactured home estate that is designated as a dwelling site by the approval for the manufactured home estate, and
- (b) in relation to a caravan park—means an area of land within the caravan park on which a moveable dwelling may be installed and that is designated as a dwelling site by the approval for the caravan park.

Electricity Code of Practice means the document published by the Department of Energy, Utilities and Sustainability under the title *Code of Practice for Electricity Supply to Long-term Residents of Caravan Parks*, as in force on 1 September 2005.

engineer's certificate means a certificate issued by a practising structural engineer under clause 51, 143 or 166.

ensuite facility, in relation to a dwelling site, means a building, part of a building or an associated structure that contains at least a shower, toilet and handbasin, is provided for the exclusive use of the occupiers of the site and is located on or adjacent to the site.

flexible annexe means an annexe that (apart from any rigid support frame and any floor, or any door, window or other securable opening, constructed of non-flexible material) consists entirely of canvas or other flexible material.

flood liable land means land that has been determined by the council to be flood liable land, having regard to the principles contained in the Floodplain Development Manual.

Floodplain Development Manual means the manual entitled *Floodplain Development Manual: the management of flood liable land* published by the Department of Infrastructure, Planning and Natural Resources, as in force from time to time.

former Regulations means the *Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995* and the *Local Government (Manufactured Home Estates and Manufactured Homes) Regulation 1995*.

habitable room has the same meaning as it has in the *Building Code of Australia*.

holiday van means a moveable dwelling (other than a tent) that is or usually is continuously located on a short-term site and used primarily by its owner for occasional occupancy for holiday purposes.

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| Clause 4 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 1 | Preliminary |

installation means:

- (a) in relation to a manufactured home or a relocatable home—the process of connecting together the major sections of the manufactured home or relocatable home, and any associated structures forming part of the manufactured home or relocatable home, and attaching them to footings, or
- (b) in relation to an associated structure—the process of constructing or assembling the components of the associated structure, and (if appropriate) attaching them to footings,

and includes the connection of gas, electricity, telephone, water, sewerage and drainage services.

long-term site means a dwelling site that is specified in the approval for a caravan park as being a long-term site.

major access road means an access road serving more than 30 dwelling sites within a manufactured home estate.

major section means a single portion of a manufactured home or relocatable home, being a portion:

- (a) that contains a total living space (excluding the living space contained in any associated structure) of at least 20 cubic metres, and
- (b) that comprises all of the major components of that portion of the home, including the chassis or frame, the external and internal walls, the roof and ceilings, the floors, the windows and doors, the internal plumbing and wiring, the tiling, the kitchen, bathroom and laundry fittings (other than stoves, refrigerators, washing machines and other whitegoods) and the built-in cupboards and cabinets.

Note. The terms **manufactured home** and **manufactured home estate** are defined in the Act.

Ministerial specifications means specifications established by an order in force under clause 39 or 133.

minor access road means an access road serving no more than 30 dwelling sites within a manufactured home estate.

Note. The term **moveable dwelling** is defined in the Act.

park van means a moveable dwelling (other than a tent), whether or not capable of being registered under the *Road Transport (Vehicle Registration) Act 1997*, that:

- (a) is or usually is continuously located on a short-term site, and
- (b) is provided for hire, and
- (c) is used by a site occupier other than the owner of the moveable dwelling primarily for holiday purposes.

Local Government (Manufactured Home Estates, Caravan Parks, Camping
Grounds and Moveable Dwellings) Regulation 2005

Clause 4

Preliminary

Part 1

Plumbing and Drainage Code of Practice means the code of practice published by the Committee on Uniformity of Plumbing and Drainage in New South Wales under the title *New South Wales Code of Practice—Plumbing and Drainage*, as in force from time to time.

practising structural engineer means a person who holds (or who at all relevant times held) qualifications in structural engineering acceptable to the Institution of Engineers, Australia, for admission as a corporate member.

primitive camping ground means a camping ground that is specified in its approval as being a primitive camping ground.

relocatable home means:

- (a) a manufactured home, or
- (b) any other moveable dwelling (whether or not self-contained) that comprises one or more major sections, including any associated structure that forms part of the dwelling,

but does not include a tent, caravan or campervan or any moveable dwelling that is capable of being registered under the *Road Transport (Vehicle Registration) Act 1997*.

rigid annexe means an annexe that is not a flexible annexe.

road reserve means such part of a manufactured home estate (excluding any part of a dwelling site) as is reserved for the purposes of access roads, footpaths, parking spaces and associated landscaping.

self-contained moveable dwelling means a moveable dwelling that contains its own shower and toilet facilities.

short-term site means a dwelling site on which a moveable dwelling that is ordinarily used for holiday purposes may be installed and that is specified in the approval for a caravan park as being a short-term site.

site boundary, in relation to a caravan park or camping ground, means any boundary of a dwelling site or camp site other than a boundary fronting onto an access road.

storey, in relation to a relocatable home, associated structure or rigid annexe, means the space situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above.

the Act means the *Local Government Act 1993*.

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

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| Clause 5 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 2 | Manufactured home estates and manufactured homes |

Part 2 Manufactured home estates and manufactured homes

Division 1 Application of Part

5 Application of Part

This Part applies to the operation of manufactured home estates, and to the installation of manufactured homes in manufactured home estates, but does not apply to the installation of manufactured homes elsewhere than in manufactured home estates.

Note. The installation of manufactured homes elsewhere than in manufactured home estates is governed by Part 3. That Part deals with relocatable homes, which includes a manufactured home.

Division 2 Approvals and exemptions

Subdivision 1 Operation of manufactured home estates

Note. Section 68 of the Act prohibits a person from operating a manufactured home estate without the prior approval of the council. Part 1 of Chapter 7 of the Act deals generally with the granting, amendment, extension, renewal, revocation and modification of approvals. Approvals may be granted subject to conditions, including conditions prescribed by the regulations. Breach of any such condition constitutes an offence under section 627 of the Act.

6 Factors for consideration before approval is granted

- (1) The council must not grant an approval to operate a manufactured home estate unless it is satisfied that the manufactured home estate will be designed, constructed, maintained and operated in accordance with the relevant requirements of Division 3.
- (2) In deciding whether or not the approval for the manufactured home estate should allow the installation of a manufactured home on flood liable land, the council must have regard to the principles contained in the Floodplain Development Manual.

7 Matters to be specified in approval

In addition to any other matters it must contain, an approval to operate a manufactured home estate must specify, by reference to a plan, the number, size and location of the dwelling sites allowed by the approval.

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 8 |
| Manufactured home estates and manufactured homes | Part 2 |

8 Conditions of approval

An approval to operate a manufactured home estate is subject to the condition that the manufactured home estate is designed, constructed, maintained and operated in accordance with the requirements of Division 3.

Note. The council may also impose conditions on the grant of an approval under section 94 of the Act.

Subdivision 2 Installation of manufactured homes and associated structures in manufactured home estates

Note. Section 68 of the Act prohibits a person from installing a manufactured home or associated structure on land without the prior approval of the council, except in so far as the regulations (among other instruments) allow a manufactured home or associated structure to be installed without that approval. Section 626 makes it an offence to fail to obtain such an approval. Breach of the conditions on which the installation of a manufactured home or associated structure is allowed constitutes an offence under section 627 of the Act.

9 Conditional exemption

- (1) The prior approval of the council is not required for:
 - (a) the installation of a manufactured home on land within a manufactured home estate, so long as:
 - (i) it is designed, constructed and installed in accordance with the relevant requirements of Division 4, and
 - (ii) it is not occupied by any person until a certificate of completion has been issued for it, or
 - (b) the installation of an associated structure on land within a manufactured home estate, so long as it is designed, constructed and installed in accordance with the relevant requirements of Division 4.
- (2) An exemption provided for by this clause applies in respect of the installation of a manufactured home only if such installation is carried out by or with the consent of the holder of the approval to operate the manufactured home estate concerned.
- (3) An exemption provided for by this clause does not apply to the installation of a manufactured home on flood liable land if the council has notified in writing the holder of the approval to operate the manufactured home estate concerned, before that installation, that the land is flood liable land.
- (4) An exemption provided for by this clause does not apply to the installation of manufactured homes, or associated structures, of more than one storey in height.

Note. By virtue of clause 2, clause 9 (4) commences on 1 March 2006.

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| Clause 10 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 2 | Manufactured home estates and manufactured homes |

10 Installation on flood-liable land

- (1) In deciding whether to approve the installation of a manufactured home or associated structure in a manufactured home estate on flood liable land, the council must have regard to the principles contained in the Floodplain Development Manual.
- (2) It is a condition of an approval to install a manufactured home or an associated structure on flood liable land that the manufactured home is designed, constructed and installed in a manufactured home estate in accordance with Division 4.

11 Installation of manufactured home or associated structure of more than one storey

In deciding whether to approve the installation in a manufactured home estate of a manufactured home or associated structure having more than one storey, the council must have regard to the likely impact on the amenity of any occupiers of any adjoining manufactured home and the amenity of any occupiers of land adjoining that manufactured home estate.

Division 3 Manufactured home estates

Subdivision 1 Land and dwelling site requirements

12 Minimum size of estate

A manufactured home estate must not have an area of less than one hectare or, if a lesser area is permitted by a relevant environmental planning instrument, that lesser area.

13 Community amenities

- (1) Of the total land area of a manufactured home estate:
 - (a) at least 10 per cent, or
 - (b) such lesser proportion (but not less than 6 per cent) as the approval for the manufactured home estate may allow, must be reserved for recreation or other communal activities.
- (2) In deciding whether to allow a lesser proportion, the council must have regard to the type and range of amenities to be provided and to such other matters as it considers relevant.

14 Size of dwelling sites

A dwelling site must have an area of at least 130 square metres.

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 15 |
| Manufactured home estates and manufactured homes | Part 2 |

15 Site identification

- (1) A dwelling site must be numbered or identified and its site boundaries clearly delineated.
- (2) The site identification must be conspicuous.

Subdivision 2 Setbacks**16 Dwelling sites to have road frontage**

A dwelling site must have vehicular access to an access road.

17 Setbacks of community buildings

- (1) A community building must not be located closer than 10 metres to the boundary of a manufactured home estate, or to the boundary of a dwelling site, unless the approval for the manufactured home estate so allows.
- (2) The approval for a manufactured home estate must not allow a lesser distance than 10 metres unless the council is satisfied that the community building has been or will be properly screened, fenced, enclosed or otherwise treated.
- (3) A community building must not in any case be located closer than 2 metres to the boundary of a manufactured home estate or to the boundary of a dwelling site.

18 Setbacks of dwelling sites from road frontages

- (1) A dwelling site must not be located closer than 10 metres to a public road or 3 metres to any other boundary of the manufactured home estate unless the approval for the manufactured home estate so allows.
- (2) The approval for a manufactured home estate must not allow a lesser distance than 10 metres unless the council is satisfied that the dwelling site has been or will be properly screened, fenced, enclosed or otherwise treated.

19 Use of buffer zones

Nothing in this Part prevents land within a buffer zone arising from the setbacks required by this Subdivision from being used:

- (a) for community amenities, access roads, car parking spaces, footpaths or landscaping, or
- (b) for any similar purpose allowed by the approval for the manufactured home estate.

Clause 20 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 2 Manufactured home estates and manufactured homes

Subdivision 3 Roads

20 Entrance and exit roads

- (1) A road that forms an entrance to or exit from a manufactured home estate must be at least 8 metres wide.
- (2) In the case of a divided road, the width of the sealed portion of the road on either side of the median strip must be at least 5 metres.
- (3) The arrangement for the width of an entrance or exit road to taper into or meet the width of the sealed portion of the access roads leading to the entrance or exit may be specified in the approval for the manufactured home estate.

21 Width of roads

- (1) The width of the road reserve must be:
 - (a) at least 8.5 metres for a major access road, and
 - (b) at least 6 metres for a minor access road.
- (2) The width of the sealed portion of an access road must be:
 - (a) at least 6 metres for a major access road, and
 - (b) at least 4 metres for a minor access road.
- (3) If a minor access road exceeds 80 metres in length, a passing bay or bays must be provided within the road reserve.
- (4) Passing bays must be provided at intervals of not more than 100 metres.
- (5) The width of the sealed portion of an access road at any point at which there is a passing or parking bay must be:
 - (a) at least 8.5 metres for a major access road, and
 - (b) at least 6 metres for a minor access road.

22 Speed restrictions as part of road design

Access roads must be so designed as to limit the speed at which vehicles may travel on them to:

- (a) 30 kilometres per hour for major access roads, and
- (b) 15 kilometres per hour for minor access roads.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 23

Manufactured home estates and manufactured homes

Part 2

23 Visitor parking

- (1) A manufactured home estate must contain no fewer visitor parking spaces than the following:
 - (a) 8 spaces for a manufactured home estate containing not more than 35 sites,
 - (b) 12 spaces for a manufactured home estate containing more than 35 sites but not more than 70 sites,
 - (c) 16 spaces for a manufactured home estate containing more than 70 sites but not more than 105 sites,
 - (d) 20 spaces for a manufactured home estate containing more than 105 sites, plus one additional space for each additional 7 sites (or part of a site) over 140.
- (2) Each parking space is to have, at minimum, dimensions of:
 - (a) 5.4 metres by 2.5 metres, in the case of angle parking, and
 - (b) 6.1 metres by 2.5 metres, in any other case.
- (3) Visitor parking spaces must be clearly identified as such.

24 Visitor parking for people with disabilities

- (1) A manufactured home estate must contain at least one visitor parking space for people with disabilities.
- (2) A manufactured home estate that contains more than 100 sites must contain at least one visitor parking space for people with disabilities for each 100 sites or fraction of 100 sites.
- (3) Such parking is to be provided in accordance with AS/NZS 2890.1:2004, *Parking facilities—Off street parking*.
- (4) Visitor parking spaces for people with disabilities must be clearly identified as such.
- (5) Visitor parking spaces provided under this clause may be counted for the purposes of clause 23.

25 Road surfaces

All access roads, including all passing and parking bays, must have an all-weather sealed or other surface finish specified in the approval for the manufactured home estate, and must be adapted to the topography to allow for adequate drainage and to eliminate excessive grades.

26 Lighting

All access roads must be adequately lit between sunset and sunrise.

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| Clause 27 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 2 | Manufactured home estates and manufactured homes |

Subdivision 4 Utility services

27 Water supply

- (1) A manufactured home estate:
 - (a) must be connected to a mains water supply, or
 - (b) must be provided with an alternative water supply service as specified in the approval for the manufactured home estate.
- (2) A dwelling site:
 - (a) must be connected to the water supply service for the manufactured home estate, and
 - (b) must be provided with a separate water meter and a separate water service isolating valve.
- (3) The water supply service must comply with:
 - (a) the Plumbing and Drainage Code of Practice, and
 - (b) the requirements of any relevant statutory body.
- (4) The water supplied for human consumption or domestic purposes must comply with the *Australian Drinking Water Guidelines* published in 2004 by the National Health and Medical Research Council.

28 Sewerage

- (1) A manufactured home estate:
 - (a) must be connected to a main sewer, or
 - (b) must be provided with an alternative sewage disposal system as specified in the approval for the manufactured home estate.
- (2) A dwelling site must be connected to the sewage disposal system for the manufactured home estate.
- (3) The sewage disposal system must comply with:
 - (a) the Plumbing and Drainage Code of Practice, and
 - (b) the requirements of any relevant statutory body.

29 Drainage

- (1) A manufactured home estate must be provided with a stormwater drainage system as specified in the approval for the manufactured home estate.
- (2) A dwelling site:
 - (a) must be connected with the stormwater drainage system for the manufactured home estate, or

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 30 |
| Manufactured home estates and manufactured homes | Part 2 |

- (b) must be provided with an on-site stormwater drainage system.
- (3) A stormwater drainage system must comply with:
 - (a) the Plumbing and Drainage Code of Practice, and
 - (b) the requirements of any relevant statutory body.

30 Electricity supply

- (1) A dwelling site must be supplied with electricity from a reticulated electricity service by means of an electrical circuit connected to a separate electricity meter.
- (2) Any such electrical circuit must be installed in accordance with the requirements of AS/NZS 3000:2000, *Electrical Installations* (known as the Australian/New Zealand Wiring Rules) as in force on 1 September 2005, except that the maximum capacity of the electrical circuit supplying a dwelling site need not be greater than 32 amperes if the site is provided with gas, whether by means of a reticulated gas service or by means of on-site gas containers.
- (3) If a dwelling site is provided with electricity otherwise than by way of direct connection to the local electricity supply authority's electricity main, the maximum amount that may be charged for the supply of electricity during a particular period is the amount that the standard retail electricity supplier for the relevant district would have charged under a standard form customer supply contract for that supply during that period.

31 Telephone lines

Telephone services, if available, must be provided in such a manner that a telephone connection is available to each dwelling site within the manufactured home estate.

32 Common trenches

A common trench may be used for the installation of services in accordance with guidelines provided in AMCORD.

Subdivision 5 General

33 Garbage removal

Arrangements specified in the approval for the manufactured home estate must be instituted and maintained for the removal of garbage and for the maintenance of garbage receptacles in a clean and sanitary condition.

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| Clause 34 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 2 | Manufactured home estates and manufactured homes |

34 Fire hydrants

- (1) No part of a dwelling site or community building within a manufactured home estate may be situated more than 90 metres from a fire hydrant.
- (2) Any fire hydrant located within a manufactured home estate must:
 - (a) be a double-headed pillar-type fire hydrant, and
 - (b) be maintained to the standard specified in the approval for the manufactured home estate.

35 Buildings

- (1) A building must not be erected on a manufactured home estate unless the approval for the manufactured home estate so allows.
- (2) The approval for the manufactured home estate is to allow only the following kinds of buildings to be erected on a manufactured home estate:
 - (a) community buildings,
 - (b) brick or masonry walls in the form of separating walls between adjoining manufactured homes or in the form of external facades to manufactured homes.
- (3) The approval for a manufactured home estate is to allow the erection of a brick or masonry wall in the form of an external facade to a manufactured home only:
 - (a) if the dwelling site on which the manufactured home is situated is a neighbourhood lot within the meaning of the *Community Land Development Act 1989*, and
 - (b) the owner of the manufactured home is also the proprietor of the neighbourhood lot.

Note. The erection of a building (including a community building or brick or masonry wall) may require development consent under the *Environmental Planning and Assessment Act 1979*.

36 Use of manufactured home estates

- (1) A manufactured home estate must not be used:
 - (a) for any commercial purpose other than a manufactured home estate or an associated purpose, or
 - (b) for the manufacture, construction or reconstruction of moveable dwellings.
- (2) Nothing in this clause prevents a manufactured home from being used for exhibition purposes.

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 37 |
| Manufactured home estates and manufactured homes | Part 2 |

- (3) This clause does not prevent the carrying out of work on a manufactured home that is installed in a manufactured home estate for the purpose of its renovation, maintenance or repair (such as painting, replacement of wall cladding or roof sheeting and the like).

37 Community map

The person who holds the approval to operate a manufactured home estate must provide the council with a copy of the current community map:

- (a) as soon as practicable after any amendment is made to the map, and
- (b) at such other times as the council may reasonably require.

38 Access to approval and community map

The holder of an approval to operate a manufactured home estate must ensure that copies of the following documents must be readily available for inspection without cost by any person in a location in the manufactured home estate specified in the approval for the manufactured home estate:

- (a) the approval for the manufactured home estate,
- (b) the current community map,
- (c) this Regulation.

Division 4 Manufactured homes and associated structures

Subdivision 1 General

39 Specifications for design, construction, installation, modification and extension of manufactured homes and associated structures

- (1) The Minister may, by order published in the Gazette, establish specifications (not inconsistent with this Division) for the design, construction, installation, modification and extension of manufactured homes and associated structures.
- (2) The specifications may adopt, with or without modification, the provisions of any rule, standard or code of practice.
- (3) Subject to this Division, a manufactured home or associated structure must be designed, constructed, installed, modified and extended in accordance with any specifications in force under this clause.

Clause 40 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 2 Manufactured home estates and manufactured homes

40 Installation allowed only on dwelling sites

- (1) A manufactured home must not be installed in a manufactured home estate otherwise than on a dwelling site.
- (2) This clause does not apply to a manufactured home that is used solely for the purposes of a community amenity or as a manager's or caretaker's office or residence.

41 Manufactured homes to be constructed and assembled off-site

- (1) A manufactured home must not be installed on a dwelling site unless each major section of the home has been constructed and assembled at, and transported to the manufactured home estate from, a place of manufacture outside the manufactured home estate.
- (2) However, the fixing of cornices, the setting of wall lining joints, the fitting of skirting boards and architraves and the grouting of tiles may be done on the dwelling site.

42 Installation allowed only if dwelling site is properly serviced

A manufactured home must not be installed on a dwelling site unless the requirements of Division 3 have been complied with in relation to the site.

43 Density

No more than one manufactured home may be installed on a single dwelling site.

44 Setbacks for manufactured homes

A manufactured home must not be located:

- (a) closer than one metre to a road reserve, or
- (b) closer than 2 metres to the boundary of the manufactured home estate.

45 Site coverage

- (1) A manufactured home and associated structure must not be installed on a single dwelling site if the floor plan area of the manufactured home (together with that of any associated structure or other building or structure on the site) is more than two-thirds of the area of the site.
- (2) For the purposes of this clause:
 - (a) the floor plan area of a manufactured home is the area occupied by the home, excluding the area of any associated structure forming part of the home that is not roofed, and

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 46

Manufactured home estates and manufactured homes

Part 2

- (b) the floor plan area of any associated structure not forming part of the manufactured home is the area occupied by the structure, excluding any area that is not roofed, and
 - (c) if there is no carport or garage on the dwelling site, an area of 18 square metres must be added to the floor plan area of the manufactured home to account for the car parking space that is required by subclause (3) to be provided on the site.
- (3) If there is no carport or garage on the dwelling site, an area with minimum dimensions of 6 metres by 3 metres, accessible from an access road and useable for car parking, must be provided on the site.

46 Minimum open space requirements for dwelling sites

- (1) There must be at least 30 square metres of open space (that is, space on which there is no building, structure or car parking space) within each dwelling site.
- (2) The open space of each dwelling site must include at least one area having a minimum width and minimum depth of 3 metres.
- (3) For the purpose of calculating the area of open space within a dwelling site, any space having a width or length of less than 2 metres must be disregarded.

47 Site boundary arrangements

- (1) A manufactured home must not be installed closer than one metre to the boundary of any adjoining dwelling site.
- (2) Subclause (1) does not prohibit the installation of a manufactured home closer than one metre to the boundary of an adjoining dwelling site if:
 - (a) the installation of a manufactured home on the adjoining site is not practicable on such part of that site as is within 2 metres of the location of the proposed manufactured home, and
 - (b) access at least one metre wide is available to the occupier of the manufactured home along each external wall of the home.
- (3) This clause does not prohibit the installation of semi-detached manufactured homes on adjoining dwelling sites so long as they are separated by construction conforming with the fire safety and sound insulation provisions relating to class 1 buildings contained in Section 3.7.1 and 3.8.6 of Volume Two of the *Building Code of Australia*.

48 Garages

- (1) A garage may abut a site boundary, a shared double carport or shared double garage may extend over a site boundary and adjacent garages may abut each other along a shared site boundary.

Clause 49 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 2 Manufactured home estates and manufactured homes

- (2) If a manufactured home and garage are situated on the same dwelling site such that the garage is situated closer than 900 millimetres to the manufactured home and closer than 900 millimetres to the site boundary of an adjoining dwelling site:
- (a) the external walls of the manufactured home that face the garage must comply with the provisions relating to class 1 buildings contained in Section 3 of Volume Two of the *Building Code of Australia*, or
 - (b) the external walls of the garage that face the manufactured home must comply with the provisions relating to class 10 buildings contained in Section 3 of Volume Two of the *Building Code of Australia*.

49 Carports

- (1) The roof covering and any ceiling lining, wall cladding or gable of a carport must be non-combustible.
- (2) A carport must have at least 2 sides open and at least one-third of its perimeter open. For the purposes of this subclause, a side is considered to be open if the roof covering of the carport is at least 500 millimetres from a manufactured home, associated structure or site boundary.
- (3) A carport must not provide direct vertical support to any part of a manufactured home.
- (4) If a carport has a common roof structure with a manufactured home and the carport does not have a ceiling, the opening between the top of the wall of the manufactured home and the underside of the roof covering of the carport must be infilled with:
 - (a) a non-combustible material, or
 - (b) construction clad with non-combustible material on the carport side.

50 Associated structures not to contain habitable rooms

An associated structure must not be designed or modified so as to be useable as a habitable room.

Subdivision 2 Design

51 Structural soundness

- (1) A manufactured home or associated structure must be of a design certified by a practising structural engineer to be structurally sound.

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 52 |
| Manufactured home estates and manufactured homes | Part 2 |

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- (2) A certificate issued under this clause:
- (a) must indicate that the manufactured home or associated structure complies with any standards, codes and specifications with which it is, by this Part or by Ministerial specifications, required to comply, and
 - (b) must include specifications as to the manner in which the manufactured home or associated structure must be transported and installed and as to the nature of the footings (if any) on which it must be installed.
- (3) Any specifications with respect to footings or tie-down systems must have regard to the design gust wind speed, soil type and other design considerations applicable to the various locations in which the home or structure may be installed.
- (4) This clause does not apply to fences or privacy screens.

52 Design gust wind speed

A manufactured home or associated structure must be designed to resist loads as determined in accordance with the following design codes, as appropriate:

- (a) AS/NZS 1170.1:2002, *Structural design actions* Part 1: *Permanent, imposed and other actions*, as in force on 1 September 2005,
- (b) AS/NZS 1170.2:2002, *Structural design actions* Part 2: *Wind actions*, as in force on 1 September 2005, or AS 4055—1992 *Wind loads for housing*, as in force on 1 September 2005 (except that the design gust wind speed for the area where the manufactured home or associated structure is located is not to be taken to be less than 41 metres per second),
- (c) AS 1170.3—1990, *Minimum design loads on structures* Part 3: *Snow loads*, as in force on 1 September 2005,
- (d) AS 1170.4—1993, *Minimum design loads on structures* Part 4: *Earthquake loads*, as in force on 1 September 2005.

53 Floor area of manufactured home

The enclosed floor area of a manufactured home must be at least 35 square metres.

Clause 54 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 2 Manufactured home estates and manufactured homes

54 Floor areas of certain rooms

- (1) The floor area of a bathroom in a manufactured home must be at least 2.2 square metres, plus an additional:
 - (a) 0.6 square metre if the bathroom has a separate shower and bath, and
 - (b) 0.7 square metre if the bathroom has a toilet, and
 - (c) 1.6 square metres if the manufactured home does not include a separate laundry.
- (2) The floor area of a shower room must be at least 1.1 square metres.
- (3) If a toilet is installed in a separate room, the room in which it is installed must have an area of at least 1.1 square metres and a width of at least 0.8 metre.
- (4) The floor area of a laundry must be at least 1.6 square metres.

55 Ceiling height

- (1) The ceiling height of each habitable room (other than a kitchen) in a manufactured home must be at least 2.4 metres.
- (2) The ceiling height of a kitchen, laundry, hallway or other similar part of a manufactured home must be at least 2.1 metres.

56 Separation of kitchen areas

A toilet must not be located in any room in a manufactured home that leads directly into a kitchen or other food preparation area unless the room containing the toilet is mechanically ventilated.

57 Lighting and ventilation

- (1) A manufactured home must have adequate provision for light and ventilation.
- (2) A habitable room must have natural lighting and natural ventilation provided by one or more windows to the outside air, or by one or more openings into an adjoining room, being windows or openings having:
 - (a) a total area of at least 10 per cent of the floor area of the room, and
 - (b) an area (being at least 5 per cent of the floor area of the room) that is capable of being opened.
- (3) If any part of the natural lighting or natural ventilation for a habitable room is provided by one or more openings into an adjoining room, the adjoining room must have natural lighting and ventilation provided by one or more windows that comply with subclause (2) in relation to the combined area of both rooms.

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 58 |
| Manufactured home estates and manufactured homes | Part 2 |

Subdivision 3 Construction

58 Termite shields

Shields, barriers or the like must be provided in accordance with AS 3660.1–2000 *Termite management—new building work and structures*, as in force on 1 September 2005, to protect any structural members that are susceptible to attack by termites.

59 Glazing

Glazing materials must be selected and installed in accordance with the relevant provisions of AS 1288—1994, *Glass in buildings—Selection and installation* and, to the extent to which those provisions require the use of safety glass, in accordance with the relevant provisions of AS/NZS 2208:1996, *Safety glazing materials in buildings* (each as in force on 1 September 2005).

60 External waterproofing

The roof, external walls, door frames and window frames of a manufactured home must be constructed so as to prevent rain or dampness penetrating to the inner parts of the home.

61 Internal waterproofing

- (1) The floor of a bathroom, shower room or room containing a toilet or washing machine in a manufactured home must consist of, or be covered by, material that is impervious to water.
- (2) The wall surface of a shower enclosure (or, in the case of a shower that is not enclosed, any wall surface within 1.5 metres of the shower fitting) must be impervious to water to a height of at least 1.8 metres above the floor.
- (3) Any wall surface within 75 millimetres of a bath, basin or other similar bathroom appliance must be impervious to water to a height of at least 150 millimetres above the appliance.

62 Plumbing and drainage

All pipes and fittings in a manufactured home that relate to water supply, sewerage or stormwater drainage must be installed in accordance with:

- (a) the Plumbing and Drainage Code of Practice, and
- (b) the requirements of any relevant statutory body.

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| Clause 63 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 2 | Manufactured home estates and manufactured homes |

63 Electrical wiring

The electrical wiring in a manufactured home must comply with the requirements of AS/NZS 3000:2000, *Electrical installations* (known as the Australian/New Zealand Wiring Rules) as in force on 1 September 2005.

64 Fire and smoke alarms

- (1) A manufactured home must be equipped with an automatic fire detection and alarm system that complies with the requirements of Part 3.7.2 of Volume Two of the *Building Code of Australia* in relation to class 1 (a) buildings within the meaning of that Code.
- (2) This clause does not apply to a manufactured home that was constructed before 1 January 1996, whether installed before, on or after that date.
- (3) This clause is repealed on the commencement of a regulation made under section 146A of the *Environmental Planning and Assessment Act 1979* that applies to a manufactured home.

Subdivision 4 Installation

65 Footings

- (1) A manufactured home or associated structure must be installed on footings if the engineer's certificate for the home or structure so requires.
- (2) The footings and tie-down system for the manufactured home or associated structure must be constructed in accordance with the engineer's certificate for the home or structure.
- (3) In the case of a manufactured home or associated structure that is placed on footings, the clearance beneath the home or structure must be:
 - (a) at least 400 millimetres, where termite shields are required to be installed, or
 - (b) at least 200 millimetres, where termite shields are not required to be installed, or
 - (c) such lesser clearance as the approval for the manufactured home estate may allow,with adequate provision for underfloor cross-flow ventilation.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 66

Manufactured home estates and manufactured homes

Part 2

66 Installation to comply with specifications

A manufactured home must not be installed on a dwelling site otherwise than in accordance with:

- (a) the specifications contained in the engineer's certificate issued in respect of the manufactured home, or
- (b) such other specifications as are specified in the approval for the manufactured home estate.

67 Compliance plate

- (1) A compliance plate must be attached to an accessible part of each of the following structures:
 - (a) a manufactured home,
 - (b) an associated structure that forms part of a manufactured home,
 - (c) an associated structure comprising a free-standing garage.
- (2) A compliance plate must specify the following:
 - (a) the name of the manufacturer of the manufactured home or associated structure,
 - (b) the unique identification number for each major section of the manufactured home,
 - (c) the month and year during which the manufactured home or associated structure was constructed,
 - (d) the design gust wind speed for the manufactured home or associated structure,
 - (e) a statement that the manufactured home or associated structure complies with the requirements of this Division,
 - (f) the name of the practising structural engineer by whom the engineer's certificate has been issued in respect of the manufactured home.
- (3) A unique identification number must be permanently marked on each major section of the manufactured home.
- (4) The Minister may, by order published in the Gazette, issue specifications for the design, construction, issue and registration of compliance plates for the purposes of this clause.
- (5) A compliance plate must be designed, constructed, issued and registered in accordance with any specifications in force under this clause.

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| Clause 68 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 2 | Manufactured home estates and manufactured homes |

68 Notice of completion of installation

- (1) The holder of an approval to operate a manufactured home estate must give the council written notice of the installation of a manufactured home or associated structure within 7 days after its completion.
- (2) The notice:
 - (a) must indicate the site identifier of the dwelling site on which the manufactured home or associated structure has been installed, and
 - (b) must include the particulars contained on each compliance plate relating to the manufactured home or associated structure.
- (3) The notice must be accompanied by:
 - (a) a copy of the engineer's certificate for the manufactured home or associated structure, and
 - (b) a fully dimensioned diagram of the dwelling site on which the manufactured home or associated structure is installed, sufficient to indicate whether or not the setback, density, open space and site delineation requirements of this Part have been complied with.

Division 5 Miscellaneous

69 Certificates of completion

- (1) Within 5 business days after receiving written notice of the completion of installation of a manufactured home or associated structure, the council must issue to the owner of the home or structure:
 - (a) a certificate of completion for the home or structure, or
 - (b) a written notice that states why such a certificate is not being issued.
- (2) In determining whether or not to issue a certificate of completion, the council must have regard to the following matters:
 - (a) whether the engineer's certificate with respect to the manufactured home or associated structure is available,
 - (b) whether the installation of the manufactured home or associated structure complies with the specifications contained in the engineer's certificate,
 - (c) whether the setback, density, open space and site delineation requirements of this Part have been complied with,
 - (d) whether a compliance plate has been duly affixed to the manufactured home or associated structure.

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 70 |
| Caravan parks, camping grounds and moveable dwellings | Part 3 |

Part 3 Caravan parks, camping grounds and moveable dwellings

Division 1 Application of Part

70 Application of Part

This Part applies to the operation of caravan parks and camping grounds, and to the installation of moveable dwellings (including manufactured homes) in caravan parks and camping grounds and elsewhere, but does not apply to the installation of manufactured homes in manufactured home estates.

Note. The operation of manufactured home estates and the installation of manufactured homes in manufactured home estates are governed by Part 2.

Division 2 Approvals and exemptions

Subdivision 1 Operation of caravan parks and camping grounds

Note. Section 68 of the Act prohibits a person from operating a caravan park or camping ground without the prior approval of the council. Part 1 of Chapter 7 of the Act deals generally with the granting, amendment, extension, renewal, revocation and modification of approvals. Approvals may be granted subject to conditions, including conditions prescribed by the regulations. Section 626 makes it an offence to fail to obtain an approval. Breach of any condition of an approval constitutes an offence under section 627 of the Act.

71 Factors for consideration before approval is granted

- (1) The council must not grant an approval to operate a caravan park or camping ground unless it is satisfied that it will be designed, constructed, maintained and operated:
 - (a) in accordance with the relevant requirements of Subdivisions 1–8 of Division 3, or
 - (b) in the case of a primitive camping ground, in accordance with the relevant requirements of Subdivision 9 of Division 3.
- (2) In deciding whether or not the approval for a caravan park or camping ground should allow the installation of a relocatable home, rigid annexe or associated structure on flood liable land, the council must have regard to the principles contained in the Floodplain Development Manual.

72 Matters to be specified in approval

- (1) In addition to any other matters it must contain, an approval to operate a caravan park or camping ground must specify the following:

Clause 72 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 3 Caravan parks, camping grounds and moveable dwellings

- (a) whether the approval allows:
 - (i) the operation of a caravan park only, or
 - (ii) the operation of a camping ground only, or
 - (iii) the operation of both a caravan park and a camping ground,
 - (b) in the case of an approval that allows the operation of a caravan park:
 - (i) the number, size and location of long-term sites allowed by the approval, and
 - (ii) the number, size and location of short-term sites allowed by the approval, and
 - (iii) the number, size and location of dwelling sites (whether long-term or short-term) to be reserved for self-contained moveable dwellings, and
 - (iv) the location of any off-site parking spaces for dwelling sites,
 - (c) in the case of an approval that allows the operation of a camping ground:
 - (i) whether the camping ground is to be a primitive camping ground, and
 - (ii) in the case of an approval for the operation of a primitive camping ground that designates camp sites, the number, size and location of the camp sites allowed by the approval, and
 - (iii) in the case of an approval for the operation of a primitive camping ground that does not designate camp sites, the maximum number of caravans, campervans and tents that are permitted to use the camping ground at any one time, and
 - (iv) the location of any off-site parking spaces for camp sites,
 - (d) the location of any flood liable land in the caravan park or camping ground.
- (2) The numbers, sizes and locations referred to in subclause (1) must be specified by reference to a community map.
- (3) The approval is to specify that, in the calculation for the purposes of subclause (1) (c) (iii) of the number of tents using a camping ground, 2 or more tents occupied by a group of not more than 12 persons camping together as a group are to be counted as only one tent.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 73

Caravan parks, camping grounds and moveable dwellings

Part 3

73 Conditions of approval to operate caravan park or camping ground

- (1) An approval to operate a caravan park or camping ground is subject to the following conditions:
 - (a) the caravan park or camping ground must be designed, constructed, maintained and operated:
 - (i) in accordance with the relevant requirements of Subdivisions 1–8 of Division 3, or
 - (ii) in the case of a primitive camping ground, in accordance with the relevant requirements of Subdivision 9 of Division 3,
 - (b) a person must not be permitted to stay in a moveable dwelling that occupies a short-term site or camp site for a total of more than 150 days in any 12 month period, unless the moveable vehicle is a holiday van and the person is the owner of that holiday van,
 - (c) the owner of a holiday van that occupies a short-term site or camp site must not be permitted to stay in the holiday van for a total of more than 180 days in any 12 month period,
 - (d) a person must not be permitted to stay in a moveable dwelling in a primitive camping ground for a total of more than 50 days in any 12 month period.
- (2) For the purposes of this clause, only overnight stays are to be counted in calculating the number of days a person spends in a moveable dwelling.
- (3) This clause does not apply to the operation of a caravan park or camping ground for a period of not more than 6 weeks if the caravan park or camping ground is being operated solely in connection with the use of the land for a sporting, recreational or cultural event.
- (4) Subclauses (1) (b), (c) and (d) and (2) do not apply to a resident owner, manager, operator or caretaker of the caravan park or camping ground.

Note. The council may also impose conditions on the grant of an approval under section 94 of the Act.

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| Clause 74 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

Subdivision 2 Installation of moveable dwellings and associated structures in caravan parks and camping grounds

Note. Section 68 of the Act prohibits a person from installing a moveable dwelling or associated structure on land without the prior approval of the council, except in so far as the regulations (among other instruments) allow a moveable dwelling or associated structure to be installed without that approval. Section 626 makes it an offence to fail to obtain such an approval. Breach of the conditions on which the installation of a moveable dwelling or associated structure is allowed constitutes an offence under section 627 of the Act.

74 Conditional exemptions

- (1) The prior approval of the council is not required for the installation of a relocatable home or associated structure on a dwelling site within a caravan park, so long as it is designed, constructed and installed in accordance with the relevant requirements of Division 4.
- (2) The prior approval of the council is not required for the installation of a caravan, tent or annexe on a dwelling site within a caravan park, so long as it is designed, constructed and installed in accordance with the relevant requirements of Division 5.
- (3) The prior approval of the council is not required for the installation of a tent on a camp site within a camping ground.
- (4) The prior approval of the council is not required for the installation of a campervan:
 - (a) on a dwelling site within a caravan park, or
 - (b) on a camp site within a camping ground.
- (5) An exemption provided for by this clause applies in respect of the installation of a relocatable home, annexe, associated structure, caravan, campervan or tent only if such installation is carried out by or with the consent of the holder of the approval to operate the caravan park or camping ground concerned.
- (6) An exemption provided for by this clause does not apply to the installation of a relocatable home, rigid annexe or associated structure on flood liable land if the council has notified in writing the holder of the approval to operate the caravan park or camping ground concerned, before that installation, that the land is flood-labile land.

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 75 |
| Caravan parks, camping grounds and moveable dwellings | Part 3 |

- (7) An exemption provided for by this clause does not apply to the installation of a relocatable home, rigid annexe or associated structure of more than one storey in height on any land within a caravan park or camping ground.

Note. By virtue of clause 2, clause 74 (7) commences on 1 March 2006.

75 Installation on flood liable land

- (1) In deciding whether or not to approve the installation of a relocatable home, rigid annexe or associated structure on flood liable land in a caravan park or camping ground, the council must have regard to the principles contained in the Floodplain Development Manual.
- (2) It is a condition of an approval to install a relocatable home or associated structure on flood liable land that the relocatable home and associated structure is designed, constructed and installed in accordance with the relevant requirements of Division 4.
- (3) It is a condition of an approval to install a rigid annexe on flood liable land that the rigid annexe is designed, constructed and installed in accordance with the relevant requirements of Division 5.

Note. The council may also impose conditions on the grant of an approval under section 94 of the Act.

76 Installation of relocatable home, rigid annexe or associated structure of more than one storey

In deciding whether to approve the installation in a caravan park or camping ground of a relocatable home, rigid annexe or associated structure having more than one storey, the council is to have regard to the likely impact on the amenity of the occupiers of any adjoining relocatable home and the amenity of the occupiers of land adjoining that caravan park or camping ground.

Subdivision 3 Installation of moveable dwellings elsewhere than in caravan parks or camping grounds

77 Conditional exemptions

The prior approval of the council is not required for:

- (a) the installation of not more than 2 caravans, campervans or tents on any land, so long as they are not occupied for more than 2 days at a time and are not occupied for more than 60 days (in total) in any single period of 12 months, or
- (b) the installation of not more than one caravan or campervan on land occupied by the owner of the caravan or campervan in connection with that owner's dwelling-house, so long as it is used

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| Clause 78 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
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- for habitation only by the owner or by members of the owner's household and is maintained in a safe and healthy condition, or
- (c) the installation of a caravan or campervan on pastoral or agricultural land, so long as it is merely occupied seasonally by persons employed in pastoral or agricultural operations on the land.

78 Unconditional exemptions

The prior approval of the council is not required for the installation of a caravan, campervan or tent on Crown reserves or on land that is reserved or dedicated under the *Forestry Act 1916*.

Note. The use of caravans, campervans and tents on such lands is regulated under the *Crown Lands Act 1989* and the *Forestry Act 1916*, respectively. The use of caravans, campervans and tents on lands reserved or dedicated under the *National Parks and Wildlife Act 1974* is regulated under that Act.

79 Plans to accompany applications for approval

- (1) An application for approval to install a moveable dwelling must be accompanied by the following:
 - (a) two copies of the plans and specifications for the moveable dwelling,
 - (b) two copies of the plans and specifications for any fences already erected or to be erected,
 - (c) two copies of the site plan of the land,
 - (d) two copies of a sketch plan of the moveable dwelling, indicating its height and proposed external configuration as installed, in relation to its site.
- (2) The plans for the moveable dwelling required by this clause must be drawn to a suitable scale and must not be less than A4 size.
- (3) The plans required by this clause must show the following:
 - (a) a plan of each floor section,
 - (b) a plan of each elevation,
 - (c) the levels of the lowest floor and of any yard or unbuilt-on area belonging to that floor and the levels of adjacent ground,
 - (d) the height, design, construction and provision for fire safety and fire resistance (if any).
- (4) If:
 - (a) the plans and specifications relate to a proposal to carry out any alteration or rebuilding of an existing moveable dwelling, or

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 80 |
| Caravan parks, camping grounds and moveable dwellings | Part 3 |

- (b) it is proposed to modify plans and specifications that have been submitted to the council,
both copies of the plans are to be coloured or marked to adequately distinguish the proposed alteration, rebuilding or modification.
- (5) The specification of the moveable dwelling:
 - (a) must describe the construction and materials of which the moveable dwelling is to be built and the method of drainage, sewerage and water supply, and
 - (b) must state whether the materials will be new or second-hand and give particulars of any second-hand materials to be used.
- (6) This clause does not apply to moveable dwellings that are capable of being registered under the *Road Transport (Vehicle Registration) Act 1997*.

80 Factors for consideration before approval is granted

In considering an application for approval to install a moveable dwelling or associated structure on any land, the council must take the following matters into consideration:

- (a) whether any development consent required under the *Environmental Planning and Assessment Act 1979* for the installation of the moveable dwelling or associated structure on the land has been given,
- (b) whether the installation of the moveable dwelling or associated structure on the land contravenes the provisions of the *Environmental Planning and Assessment Act 1979* or of any environmental planning instrument.

81 Conditions of approval—relocatable homes and associated structures

- (1) An approval to install a relocatable home elsewhere than in a caravan park or camping ground is subject to the condition that it must be designed, constructed and installed in accordance with the requirements of Division 4 (clauses 133–136 excepted).
- (2) An approval to install an associated structure elsewhere than in a caravan park or camping ground is subject to the condition that it must be designed, constructed and installed in accordance with the requirements of Division 4 (clauses 133–136 excepted).
- (3) For the purpose of applying the provisions of Division 4 to the installation of a relocatable home or associated structure elsewhere than in a caravan park or camping ground:

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| Clause 82 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
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- (a) a reference in those provisions to a caravan park is taken to be a reference to the land on which the relocatable home or associated structure is to be installed, and
- (b) a reference in those provisions to an approval for a caravan park is taken to be a reference to the approval for the installation of the relocatable home or associated structure.

82 Conditions of approval—rigid annexes

- (1) An approval to install a rigid annexe elsewhere than in a caravan park or camping ground is subject to the condition that it must be designed, constructed and installed in accordance with the requirements of Subdivisions 2 and 3 of Division 5.
- (2) For the purpose of applying the provisions of Subdivisions 2 and 3 of Division 5 to the installation of a rigid annexe elsewhere than in a caravan park or camping ground:
 - (a) a reference in those provisions to a caravan park is taken to be a reference to the land on which the rigid annexe is to be installed, and
 - (b) a reference in those provisions to an approval for a caravan park is taken to be a reference to the approval for the installation of the rigid annexe.

Division 3 Caravan parks and camping grounds

Subdivision 1 Land and site requirements

83 Minimum size of caravan park or camping ground

- (1) A caravan park must not have an area of less than one hectare or, if a lesser area is prescribed by a relevant environmental planning instrument, that lesser area.
- (2) There is no minimum size for a camping ground.

84 Community amenities

- (1) Of the total land area of a caravan park or camping ground:
 - (a) at least 10 per cent, or
 - (b) such lesser proportion (but not less than 6 per cent) as the approval for the caravan park or camping ground may allow, must be reserved for recreation or other communal activities.
- (2) In deciding whether to allow a lesser proportion, the council must have regard to the type and range of amenities to be provided and to such other matters as it considers relevant.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 85

Caravan parks, camping grounds and moveable dwellings

Part 3

85 Size of dwelling sites and camp sites

- (1) A long-term site must have an area of at least 80 square metres.
- (2) A short-term site must have an area of at least 65 square metres.
- (3) A camp site must have an area of at least:
 - (a) 40 square metres, in the case of a camp site for which a separate parking space is provided within 30 metres of the camp site, or
 - (b) 50 square metres, in any other case.

86 Site identification

- (1) A dwelling site or camp site must be numbered or identified and its site boundaries clearly delineated.
- (2) The site identification must be conspicuous.

Subdivision 2 Setbacks

87 Dwelling sites to have road frontage

A dwelling site must have vehicular access to an access road.

88 Setbacks of community buildings

- (1) A community building must not be located closer than 10 metres to the boundary of a caravan park or camping ground, or to the boundary of a dwelling site or camp site, unless the approval for the caravan park or camping ground so allows.
- (2) The approval for a caravan park or camping ground must not allow a lesser distance than 10 metres unless the council is satisfied that the community building has been or will be properly screened, fenced, enclosed or otherwise treated.
- (3) A community building must not in any case be located closer than 3 metres to the boundary of a caravan park or camping ground or 5 metres to the boundary of a dwelling site or camp site.

89 Setbacks of dwelling sites and camp sites from road frontages

- (1) A dwelling site or camp site must not be located closer than 10 metres to a public road or 3 metres to any other boundary of the caravan park or camping ground unless the approval for the caravan park or camping ground so allows.
- (2) The approval for a caravan park or camping ground must not allow a lesser distance unless the council is satisfied that the dwelling site or camp site has been or will be properly screened, fenced, enclosed or otherwise treated.

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| Clause 90 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

90 Use of buffer zones

Nothing in this Regulation prevents land within a buffer zone arising from the setbacks required by this Division from being used:

- (a) for community amenities, access roads, car parking spaces, footpaths or landscaping, or
- (b) for any similar purpose allowed by the approval for the caravan park or camping ground.

91 Separation distances

- (1) A moveable dwelling must not be installed closer to any other moveable dwelling than:
 - (a) 3 metres, if it is situated on a long-term site, or
 - (b) 2.5 metres, if it is situated on a short-term site or camp site.
- (2) This clause does not prohibit the installation of semi-detached relocatable homes on adjoining dwelling sites so long as they are separated by construction conforming to the fire safety and sound insulation provisions relating to class 1 buildings contained in Section 3.7.1 and 3.8.6 of Volume Two of the *Building Code of Australia*.
- (3) This clause does not prohibit the installation of semi-detached relocatable homes on adjoining dwelling sites so long as they are separated by construction conforming to the fire safety and sound insulation provisions relating to class 1 buildings contained in Section 3.7.1 and 3.8.6 of Volume Two of the *Building Code of Australia*.

Subdivision 3 Roads

92 Entrance and exit roads

- (1) A road that forms an entrance to or exit from a caravan park or camping ground must be at least 7 metres wide.
- (2) In the case of a divided road, the width of the sealed portion of the road on either side of the median strip must be at least 5 metres.
- (3) The arrangement for the width of an entrance or exit road to taper into or meet the width of the sealed portion of the access roads leading to the entrance or exit must be as specified in the approval for the caravan park or camping ground.

93 Forecourt

A caravan park must have a forecourt, measuring at least 4 metres by 20 metres, to accommodate incoming vehicles.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 94

Caravan parks, camping grounds and moveable dwellings

Part 3

94 Width of roads

- (1) The width of an access road must be:
 - (a) at least 6 metres for a two-way access road, and
 - (b) at least 4 metres for a one-way access road.
- (2) The direction of travel for a one-way access road must be indicated by means of conspicuous signs.

95 Speed limits

The speed limit applicable to an access road:

- (a) must not exceed 15 kilometres per hour, and
- (b) must be indicated by means of conspicuous signs.

96 Resident parking

- (1) A caravan park or camping ground must contain at least one resident parking space for each dwelling site or camp site.
- (2) The parking space for a dwelling site or camp site may be on-site (that is, forming part of the site) or off-site (that is, not forming part of the site).
- (3) An off-site space must be marked (for example, by means of line marking, marker pegs or similar means) to identify the particular dwelling site or camp site to which it relates.
- (4) An off-site parking space for a dwelling site or camp site must be situated in the location specified in the approval for the caravan park or camping ground.
- (5) Each off-site parking space is to have, at minimum, dimensions of:
 - (a) 5.4 metres by 2.5 metres, in the case of angle parking, and
 - (b) 6.1 metres by 2.5 metres, in any other case.

97 Visitor parking

- (1) A caravan park or camping ground must contain no fewer visitor parking spaces than the following:
 - (a) one visitor parking space for each 10 (and any remaining fraction of 10) long-term sites in the caravan park or camping ground,
 - (b) one visitor parking space for each 20 (and any remaining fraction of 20) short-term sites in the caravan park or camping ground,
 - (c) one visitor parking space for each 40 (and any remaining fraction of 40) camp sites in the caravan park or camping ground.
- (2) The minimum number of visitor parking spaces to be provided is 4.

Clause 98 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 3 Caravan parks, camping grounds and moveable dwellings

- (3) Each parking space is to have, at minimum, dimensions of:
 - (a) 5.4 metres by 2.5 metres, in the case of angle parking, and
 - (b) 6.1 metres by 2.5 metres, in any other case.
- (4) Visitor parking spaces must be clearly identified as such.

98 Visitor parking for people with disabilities

- (1) A caravan park or camping ground must contain at least one visitor parking space for people with disabilities.
- (2) A caravan park or camping ground that contains more than 100 sites must contain at least one visitor parking space for people with disabilities for each 100 sites or fraction of 100 sites.
- (3) Such parking is to be provided in accordance with AS/NZS 2890.1:2004 *Parking facilities—Off street parking*.
- (4) Visitor parking spaces for people with disabilities must be clearly identified as such.
- (5) Visitor parking spaces provided under this clause may be counted for the purposes of clause 97.

99 Road surfaces

All access roads, including all passing and parking bays, must have an all-weather sealed or other surface finish specified in the approval for the caravan park or camping ground, and must be adapted to the topography to allow for adequate drainage and to eliminate excessive grades.

100 Lighting

All access roads must be adequately lit between sunset and sunrise.

Subdivision 4 Utility services

101 Water supply

- (1) A caravan park or camping ground:
 - (a) must be connected to a mains water supply, or
 - (b) must be provided with an alternative water supply service as specified in the approval for the caravan park or camping ground.
- (2) A dwelling site must be connected to the water supply service for the caravan park or camping ground.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 102

Caravan parks, camping grounds and moveable dwellings

Part 3

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- (3) A camping ground must have water supply connections for the camp sites at the rate of one connection for every 4 camp sites. Connections must be located so that no camp site is more than 30 metres from a connection.
 - (4) The water supply connections must include a standpipe and hose tap.
 - (5) The water supply service must comply with:
 - (a) the Plumbing and Drainage Code of Practice, and
 - (b) the requirements of any relevant statutory body.
 - (6) The water supplied for human consumption or domestic purposes must comply with the *Australian Drinking Water Guidelines* published in 2004 by the National Health and Medical Research Council.

102 Sewerage

- (1) A caravan park or camping ground:
 - (a) must be connected to a main sewer, or
 - (b) must be provided with an alternative sewage disposal system as specified in the approval for the caravan park or camping ground.
- (2) A long-term site must be provided with a connection to the sewage disposal system for the caravan park or camping ground.
- (3) A caravan park or camping ground that includes any short-term sites or camp sites must be provided with at least one common soil waste dump point for the disposal of closet waste from caravan holding tanks and the like. The common soil waste dump point must be located so as to permit adequate access by caravans and campervans.
- (4) A short-term site must be provided with a disposal point, as specified in the approval, for the disposal of sullage (that is, domestic waste from baths, basins, showers, laundries and kitchens, including floor wastes from those sources) from any moveable dwelling installed on the site. More than one short-term site may be provided with the same disposal point.
- (5) The sewage disposal system must comply with:
 - (a) the Plumbing and Drainage Code of Practice, and
 - (b) the requirements of any relevant statutory body.

103 Drainage

- (1) A caravan park or camping ground must be provided with a stormwater drainage system.

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| Clause 104 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

- (2) All dwelling sites and camp sites must be adequately drained.

Note. The Act requires stormwater drainage work to be carried out only with the approval of the council. The *Local Government (General) Regulation 2005* specifies further requirements with respect to drainage.

104 Electricity supply

- (1) A dwelling site must be supplied with electricity from a reticulated electricity service.
- (2) In the case of a long-term site, the electricity must be supplied by means of an electrical circuit connected to a separate electricity meter.
- (3) Any such electrical circuit must be installed in accordance with the requirements of:
 - (a) the Electricity Code of Practice, in the case of a long-term site, and
 - (b) AS/NZS 3001:2001, *Electrical installations—Relocatable premises (including caravans and tents) and their site installations*, as in force on 1 September 2005, in the case of a short-term site.
- (4) If a dwelling site is provided with electricity otherwise than by way of direct connection to the local electricity supply authority's electricity main, the maximum amount that may be charged for the supply of electricity during a particular period is the amount that the standard retail electricity supplier for the relevant district would have charged under a standard form customer supply contract for that supply during that period.

105 Common trenches

A common trench may be used for the installation of services in accordance with guidelines set out in AMCORD.

Subdivision 5 Shower and toilet facilities

106 Modification of calculations under this Subdivision

In calculating the facilities to be provided in accordance with this Subdivision:

- (a) 2 camp sites are taken to be the equivalent of one dwelling site, and
- (b) dwelling sites reserved for use by self-contained moveable dwellings, and dwelling sites provided with ensuite facilities, are to be disregarded.

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Clause 107

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107 Number of showers and toilets to be provided

- (1) A caravan park or camping ground with fewer than 200 dwelling sites must be provided with facilities specified in the Table to this clause according to the number of dwelling sites in the caravan park or camping ground.
- (2) A caravan park or camping ground with 200 dwelling sites or more must be provided with those facilities as specified in the approval for the caravan park or camping ground.
- (3) In considering the facilities to be provided in accordance with subclause (2), the council must have regard to the rate of increment of quantities set out in the Table to this clause.
- (4) For the purposes of this clause:
 - (a) a requirement for a shower may be met by the provision of a bathtub, and
 - (b) a requirement for a urinal may be met by the provision of an individual unit or by each 600 millimetre width of a larger facility.

Table

| Sites | Water closets | | Urinals | Showers | | Handbasins | |
|---------|---------------|------|---------|---------|------|------------|------|
| | Female | Male | | Female | Male | Female | Male |
| 1–25 | 3 | 2 | 1 | 2 | 2 | 2 | 2 |
| 26–50 | 5 | 3 | 2 | 3 | 3 | 3 | 3 |
| 51–75 | 6 | 4 | 2 | 4 | 4 | 3 | 3 |
| 76–100 | 7 | 4 | 2 | 5 | 5 | 4 | 4 |
| 101–125 | 8 | 5 | 3 | 6 | 6 | 4 | 4 |
| 126–150 | 9 | 6 | 3 | 7 | 7 | 5 | 5 |
| 151–175 | 10 | 6 | 4 | 8 | 8 | 5 | 5 |
| 176–199 | 11 | 7 | 4 | 9 | 9 | 6 | 6 |

108 Facilities for people with disabilities

- (1) A caravan park or camping ground must be provided with shower, toilet and associated facilities, designed in accordance with AS 1428.1—2001, *Design for access and mobility* Part 1: *General requirements for access—New building work*, as in force on 1 September 2005.

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| Clause 109 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
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- (2) A caravan park or camping ground with fewer than 100 dwelling sites must be provided with:
 - (a) one of each facility for each sex, or
 - (b) one of each facility for use by both sexes.
- (3) A caravan park or camping ground with 100 dwelling sites or more must be provided with:
 - (a) two of each facility for each sex, or
 - (b) two of each facility for use by both sexes, or
 - (c) one of each facility for each sex and one of each facility for use by both sexes.
- (4) Facilities provided in accordance with this clause may be counted for the purposes of clause 107.
- (5) This clause applies in respect of a caravan park or camping ground only if it has at least one dwelling site (other than a dwelling site that is disregarded under clause 106 (b)) or at least one camp site.

109 Other facilities

- (1) All showers and handbasins required by this Subdivision must be supplied with hot and cold running water.
- (2) A mirror must be provided:
 - (a) for each handbasin provided, or
 - (b) if 2 or more handbasins are provided together, for each pair of handbasins.
- (3) Means for sanitary napkin disposal must be provided in each communal facility that contains water closets for female use and, in a facility containing 10 or more water closets, must be provided at the rate of one for each 10 (or remaining fraction of 10) water closets.

110 Construction of shower blocks and toilet blocks

- (1) Except as otherwise provided by the approval for the caravan park or camping ground, the shower and toilet facilities provided for a caravan park or camping ground must be housed in a shower block or toilet block:
 - (a) that is constructed of brick or concrete masonry block, and
 - (b) that has a non-slip floor of tile or other impervious material adequately drained to outlets, and
 - (c) that has smooth, hard, durable and water-resistant interior finishes, and

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 111

Caravan parks, camping grounds and moveable dwellings

Part 3

- (d) that has shower recesses with tile or other impervious finishes to a height of at least 1.8 metres, and
 - (e) that has tile or other impervious skirtings around water closet cubicle walls, and
 - (f) that has tile or other impervious finish around wash basins, and
 - (g) that has adequate lighting (both inside and outside) and adequate ventilation at all times, and
 - (h) that has all its walls, ceilings and floors, fixtures, fittings and appliances maintained in a clean and sanitary condition at all times.
- (2) Subject to clause 108 (2) and (3), if male and female shower or toilet facilities are located in the same building, that building must be divided for separate use by each sex.
 - (3) Water closets must be provided in individual cubicles having a minimum floor area of 1.1 square metres and a minimum width of 0.8 metre.

111 Proximity of dwelling sites to shower blocks and toilet blocks

- (1) A long-term site must not be situated more than 75 metres (measured in a straight line) from a shower block or toilet block.
- (2) A short-term site or camp site must not be situated more than 100 metres (measured in a straight line) from a shower block or toilet block.
- (3) This clause does not apply in respect of dwelling sites reserved for use by self-contained moveable dwellings and dwelling sites provided with ensuite facilities.

Subdivision 6 Laundry facilities

112 Modification of calculations under this Subdivision

In calculating the facilities to be provided in accordance with this Subdivision, 2 camp sites are taken to be the equivalent of one short-term site.

113 Washing machines

- (1) A caravan park or camping ground must be provided with:
 - (a) at least one washing machine for each 25 (and any remaining fraction of 25 greater than 12) long-term sites, and
 - (b) at least one washing machine for each 30 (and any remaining fraction of 30 greater than 15) short-term sites.
- (2) The minimum number of washing machines to be provided is 2.

Clause 114 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 3 Caravan parks, camping grounds and moveable dwellings

114 Laundry tubs

- (1) A caravan park or camping ground must be provided with:
 - (a) at least one laundry tub for each 50 (and any remaining fraction of 50) long-term sites, and
 - (b) at least one laundry tub for each 60 (and any remaining fraction of 60) short-term sites.
- (2) The minimum number of laundry tubs to be provided is one.

115 Clothes dryers

- (1) A caravan park or camping ground must be provided with:
 - (a) at least one mechanical clothes dryer for each 60 (and any remaining fraction of 60 greater than 30) long-term sites, and
 - (b) at least one mechanical clothes dryer for each 80 (and any remaining fraction of 80 greater than 40) short-term sites.
- (2) The minimum number of mechanical clothes dryers to be provided is one.

116 Drying areas

- (1) A caravan park or camping ground must be provided with clothes line space at the rate of 2 metres of line for each dwelling site.
- (2) The minimum length of clothes line space to be provided is 50 metres.

117 Water supply

Washing machines and laundry tubs required by this Subdivision must be supplied with both hot and cold water.

118 Ironing facilities

A caravan park or camping ground must be provided with ironing boards, electric irons and power points available for connection to electric irons at the rate of one for every 60 (or remaining fraction of 60) short-term sites.

119 Construction of laundry blocks

Except as otherwise provided by the approval for the caravan park or camping ground, the laundry facilities provided for a caravan park or camping ground must be housed in a laundry block:

- (a) that is constructed of brick or concrete masonry block, and
- (b) that has a non-slip floor of tile or other impervious material adequately drained to outlets, and

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 120 |
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- (c) that has smooth, hard, durable and water-resistant interior finishes, and
 - (d) that has adequate lighting (both inside and outside) and adequate ventilation at all times, and
 - (e) that has all its walls, ceilings and floors, fixtures, fittings and appliances maintained in a clean and sanitary condition at all times.

120 Maintenance

The laundry facilities required by this Subdivision that are housed in a laundry block must be maintained in a serviceable and safe condition.

Subdivision 7 Management

121 Maximum number of persons per dwelling site or camp site

No more than 12 persons may be allowed to stay overnight at a dwelling site or camp site at any one time.

122 Register of occupiers

- (1) A register of occupiers must be kept for a caravan park or camping ground.
- (2) Each person who alone occupies a dwelling site or camp site, must be registered under this clause.
- (3) However, if more than one person occupies the same dwelling site, or camp site only one such person must be registered (although the other persons may be registered).
- (4) The register must include the following particulars in relation to a person whose occupation of a site is registered under this clause:
 - (a) the person's name and address,
 - (b) the dates of arrival and departure of the person,
 - (c) the site identification of the site occupied by the person,
 - (d) the registration number (if any) of the moveable dwelling, in the case of a caravan or campervan,
 - (e) particulars of the relevant compliance plate, in the case of a relocatable home.
- (5) The register must be available for inspection by any authorised person without cost during normal working hours.

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| Clause 123 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

123 Information to be given to prospective occupiers

- (1) Before the holder of the approval for a caravan park or camping ground enters into an agreement with a person relating to the person's occupation of a dwelling site or camp site, the holder of the approval must ensure that the person is given written notice of the conditions of occupation.
- (2) This clause does not apply if the agreement relates to the person's occupation of a long-term site, unless the person is proposing to occupy that site for holiday purposes.
- (3) The notice must include the following particulars:
 - (a) the site identification of the dwelling site or camp site allocated to the person,
 - (b) the date (if any) on which it is agreed that the person's occupation of the dwelling site or camp site will cease,
 - (c) in the case of an agreement relating to occupation of a short-term site or camp site, advice as to the maximum number of days that the person may stay in a moveable dwelling on the site in any 12 month period (being the maximum number provided for by clause 73 or a smaller number determined by the holder of the approval to operate the caravan park or camping ground),
 - (d) the rules (if any) of the caravan park or camping ground,
 - (e) a telephone number on which the holder of the approval for the caravan park or camping ground, or his or her agent, may be contacted in the event of an emergency,
 - (f) whether or not pets may be kept in the caravan park or camping ground and, if so, on what conditions,
 - (g) the nature and location of the amenities available for use by the person as an occupier of the dwelling site or camp site and the charges, if any, for use of those amenities,
 - (h) the location of each fire extinguisher, fire hose reel and fire hydrant that is installed within the park or ground,
 - (i) if the holder of the approval to operate the caravan park or camping ground has been notified in writing by the council that any of the land in the caravan park or camping ground is flood liable land or bush fire prone land, the location of that flood liable land or bush fire prone land within the caravan park or camping ground,

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 124 |
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- (j) any other matters affecting the person's occupation of the dwelling site or camp site or use of the caravan park or camping ground and its amenities.

Note. The *Residential Parks Act 1998* and the regulations under that Act apply to certain residential tenancy agreements under which the residential premises consist of a moveable dwelling, or a site on which a moveable dwelling is situated, or both. That Act does not apply to premises ordinarily used for holiday purposes. The *Residential Parks Act 1998* also provides rights to information for prospective residents of residential parks.

124 Use of caravan parks and camping grounds

- (1) A caravan park or camping ground must not be used:
- (a) for any commercial purpose other than a caravan park or camping ground or an associated purpose, or
 - (b) for the manufacture, construction or reconstruction of moveable dwellings.
- (2) This clause does not prevent the carrying out of work on a moveable dwelling that is installed in a caravan park or camping ground for the purpose of its renovation, maintenance or repair (such as painting, replacement of wall cladding or roof sheeting and the like).

125 Community map

The council must be given a copy of the current community map:

- (a) as soon as practicable after any amendment is made to the map, and
- (b) at such other times as the council may reasonably require.

126 Access to approval and community map

- (1) The holder of an approval to operate a caravan park or camping ground must ensure that copies of the following documents are readily available for inspection without cost in a location in the caravan park or camping ground specified in the approval for the caravan park or camping ground:
- (a) the approval for the caravan park or camping ground,
 - (b) the current community map,
 - (c) this Regulation.
- (2) A copy of the current community map must also be displayed in a prominent position in the caravan park or camping ground.

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| Clause 127 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

Subdivision 8 General

127 Garbage removal

Arrangements specified in the approval for the caravan park or camping ground must be instituted and maintained for the removal of garbage and for the maintenance of garbage receptacles in a clean and sanitary condition.

128 Fire hydrants

- (1) No part of a dwelling site, camp site or community building within a caravan park or camping ground may be situated more than 90 metres from a fire hydrant.
- (2) Any fire hydrant located within a caravan park or camping ground must:
 - (a) be a double-headed pillar-type fire hydrant, and
 - (b) be maintained to the standard specified in the approval for the caravan park or camping ground.

129 Fire hose reels

- (1) Fire hose reels must be installed so that each dwelling site or camp site in the caravan park or camping ground can be reached by a fire hose.
- (2) The fire hose reels must be constructed in accordance with AS/NZS 1221:1997, *Fire hose reels* and installed in accordance with AS 2441—1988, *Installation of fire hose reels*, as in force on 1 September 2005.
- (3) The holder of the approval for the caravan park or camping ground must cause the council to be given a certificate (a **fire hose reel certificate**) in relation to the fire hose reels once every calendar year. If a fire hose reel is newly installed, the certificate must be provided within 7 days of the completion of its installation.
- (4) A fire hose reel certificate is to state, in relation to each fire hose reel installed in the caravan park or camping ground:
 - (a) that the fire hose reel has been inspected and tested by a person (chosen by the holder of the approval) who is properly qualified to carry out such an inspection and test, and
 - (b) that, as at the date on which the fire hose reel was inspected and tested, the fire hose reel was found to have been capable of performing to a standard not less than that required by this Regulation.

130 Car washing bay

A caravan park must be provided with an area for use for washing vehicles.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 131

Caravan parks, camping grounds and moveable dwellings

Part 3

131 Buildings

- (1) A building must not be erected in a caravan park or camping ground unless the approval for the caravan park or camping ground so allows.
- (2) The approval for a caravan park or camping ground is to allow community buildings to be erected only in the caravan park or camping ground.
- (3) The approval for a caravan park or camping ground is not to allow the erection of a community building (other than an ensuite facility) on a dwelling site or camp site.

Note. The erection of a building (including a community building or brick or masonry wall) may require development consent under the *Environmental Planning and Assessment Act 1979*.

Subdivision 9 Primitive camping grounds

132 Primitive camping grounds

- (1) If an approval to operate a primitive camping ground designates one or more camp sites within that ground, then the maximum number of designated camp sites is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground).
- (2) The following conditions apply to a primitive camping ground:
 - (a) if the approval to operate the primitive camping ground designates one or more camp sites within that ground—camping is not permitted within the primitive camping ground other than on those designated camp sites,
 - (b) if the approval to operate the primitive camping ground does not designate one or more camp sites within that ground—the maximum number of caravans, campervans and tents permitted to use the camping ground at any one time is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground),
 - (c) a caravan, annexe or campervan must not be allowed to be installed closer than 6 metres to any other caravan, annexe, campervan or tent,
 - (d) a tent must not be allowed to be installed closer than 6 metres to any caravan, annexe or campervan or closer than 3 metres to any other tent,
 - (e) the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,

Clause 133 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

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- (f) unoccupied caravans, campervans and tents are not to be allowed to remain in the camping ground for more than 24 hours,
 - (g) if a fee is charged for camping, a register must be kept that contains entries concerning the same matters as are specified in clause 122 and, in addition, that specifies the size of the group (if any) with whom the person listed in the register camped,
 - (h) such fire fighting facilities as may be specified in the approval are to be provided at the primitive camping ground.
- (3) If the approval to operate a primitive camping site does not designate camp sites, a council may impose as a condition of the approval that the installation of tents, caravans, campervans and annexes is not permitted on a particular area or areas of land within the primitive camping ground, for reasons of health or safety or to ensure consistency with the principles of ecologically sustainable development or for any other purpose.
 - (4) The provisions of Subdivisions 1–8 do not apply to a primitive camping ground.
 - (5) For the purposes of subclause (2) (b), in the calculation of the number of tents using a camping ground, 2 or more tents occupied by not more than 12 persons camping together as a group are to be counted as only one tent.

Division 4 Relocatable homes and associated structures

Subdivision 1 General

133 Specifications for design, construction, installation, modification and extension of relocatable homes and associated structures

- (1) The Minister may, by order published in the Gazette, issue specifications (not inconsistent with this Division) for the design, construction, installation, modification and extension of relocatable homes and associated structures.
- (2) The specifications may adopt, with or without modification, the provisions of any rule, standard or code of practice.
- (3) Subject to this Division, a relocatable home or associated structure must be designed, constructed, installed, modified and extended in accordance with any specifications in force under this clause.

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| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 134 |
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134 Installation allowed only on dwelling sites

- (1) A relocatable home must not be installed in a caravan park otherwise than on a dwelling site.
- (2) This clause does not apply to a relocatable home that is used solely for the purposes of a community amenity or as a manager's or caretaker's office or residence.

135 Relocatable homes to be constructed and assembled off-site

- (1) A relocatable home must not be installed on a dwelling site unless each major section of the home has been constructed and assembled at, and transported to the caravan park from, a place of manufacture outside the caravan park.
- (2) However, the fixing of cornices, the setting of wall lining joints, the fitting of skirting boards and architraves and the grouting of tiles may be done on the dwelling site.

136 Installation allowed only if dwelling site is properly serviced

A relocatable home must not be installed on a dwelling site unless the requirements of Division 3 have been complied with in relation to the site.

137 One relocatable home per dwelling site

No more than one relocatable home may be installed on a single dwelling site.

138 Setbacks for relocatable homes

A relocatable home and any associated structure must not be located:

- (a) closer than one metre to an access road, or
- (b) closer than 2 metres to the boundary of the caravan park.

139 Site coverage

- (1) A relocatable home and any associated structure must not be installed on a single dwelling site if the floor plan area of the relocatable home (together with any associated structure or other building or structure on the site) is more than two-thirds of the area of the site.
- (2) For the purposes of this clause:
 - (a) the floor plan area of a relocatable home is the area of the dwelling site occupied by the home, excluding the area of any associated structure forming part of the home that is not roofed, and

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| Clause 140 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
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- (b) the floor plan area of any associated structure not forming part of the relocatable home is the area of the dwelling site occupied by the structure, excluding any area that is not roofed, and
 - (c) if there is no carport or garage on the dwelling site, an area of 18 square metres must be added to the floor plan area of the relocatable home to account for the car parking space that is required by subclause (3) to be provided on the site.
- (3) If there is no carport or garage on the dwelling site, an area with minimum dimensions of 6 metres by 3 metres, accessible from an access road and useable for car parking, must be provided on the site.
 - (4) Subclause (3) does not apply if the resident's parking space for that dwelling site is separate from the site.

140 Garages

- (1) A garage may abut a site boundary, a shared double carport or shared double garage may extend over a site boundary and adjacent garages may abut each other along a shared site boundary.
- (2) If a relocatable home and garage are situated on the same dwelling site such that the garage is situated closer than 900 millimetres to the relocatable home and closer than 900 millimetres to the site boundary of an adjoining dwelling site:
 - (a) the external walls of the relocatable home that face the garage must comply with the provisions relating to class 1 buildings contained in Section 3 of Volume Two of the *Building Code of Australia*, or
 - (b) the external walls of the garage that face the relocatable home must comply with the provisions relating to class 10 buildings contained in Section 3 of Volume Two of the *Building Code of Australia*.

141 Carports

- (1) The roof covering and any ceiling lining, wall cladding or gable of a carport must be non-combustible.
- (2) A carport must have at least 2 sides open and at least one-third of its perimeter open. For the purposes of this subclause, a side is considered to be open if the roof covering of the carport is at least 500 millimetres from a relocatable home, annexe, associated structure or site boundary.
- (3) A carport must not provide direct vertical support to any part of a relocatable home.

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Caravan parks, camping grounds and moveable dwellings

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- (4) If a carport has a common roof structure with a relocatable home and the carport does not have a ceiling, the opening between the top of the wall of the relocatable home and the underside of the roof covering of the carport must be infilled with:
- (a) a non-combustible material, or
 - (b) construction clad with non-combustible material on the carport side.

142 Associated structures not to contain habitable rooms

An associated structure must not be designed or modified so as to be useable as a habitable room.

Subdivision 2 Design

143 Structural soundness

- (1) A relocatable home or associated structure must be of a design certified by a practising structural engineer to be structurally sound.
- (2) A certificate issued under this clause:
 - (a) must indicate that the relocatable home or associated structure complies with any standards, codes and specifications with which it is, by this Regulation or by the Ministerial specifications, required to comply, and
 - (b) must include specifications as to the manner in which the relocatable home or associated structure must be transported and installed and as to the nature of the footings (if any) on which it must be installed.
- (3) Any specifications with respect to footings or tie-down systems must have regard to the design gust wind speed, soil type and other design considerations applicable to the various locations in which the home or structure may be installed.
- (4) This clause does not apply to fences or privacy screens.

144 Design gust wind speed

A relocatable home must be designed to resist loads as determined in accordance with the following design codes, as appropriate:

- (a) AS/NZS 1170.1:2002, *Structural design actions* Part 1: *Permanent, imposed and other actions*, as in force on 1 September 2005,

Clause 145 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Part 3 Caravan parks, camping grounds and moveable dwellings

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- (b) AS/NZS 1170.2:2002, *Structural design actions Part 2: Wind actions*, as in force on 1 September 2005, or AS 4055—1992 *Wind loads for housing*, as in force on 1 September 2005 (except that the design gust wind speed for the area where the manufactured home or associated structure is located is not to be taken to be less than 41 metres per second),
 - (c) AS 1170.3—1990, *Minimum design loads on structures Part 3: Snow loads*, as in force on 1 September 2005,
 - (d) AS 1170.4—1993, *Minimum design loads on structures Part 4: Earthquake loads*, as in force on 1 September 2005.

145 Floor area of relocatable home

The enclosed floor area of a relocatable home must be at least 15 square metres.

146 Floor area of certain rooms

- (1) The floor area of a bathroom of a relocatable home must be at least 2.2 square metres, plus an additional:
 - (a) 0.6 square metre if the bathroom has a separate shower and bath, and
 - (b) 0.7 square metre if the bathroom has a toilet, and
 - (c) 1.6 square metre if the relocatable home does not include a separate laundry.
- (2) The additional requirement in subclause (1) (c) does not apply in respect of a relocatable home that is used or intended to be used as a holiday van or park van.
- (3) The floor area of a shower room must be at least 1.1 square metres.
- (4) If a toilet is installed in a separate room, the room in which it is installed must have an area of at least 1.1 square metres and a width of at least 0.8 metre.
- (5) The floor area of a laundry must be at least 1.6 square metres.

147 Ceiling height

- (1) The ceiling height of each habitable room (other than a kitchen) in a relocatable home must be at least 2.4 metres.
- (2) The ceiling height of a kitchen, laundry, hallway or other similar part of a relocatable home must be at least 2.1 metres.

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- (3) In the case of a habitable room with a sloping ceiling, the ceiling height may be less than 2.4 metres if:
- (a) the floor area of the part of the room with a ceiling height of less than 2.4 metres does not exceed one-third of the floor area of the whole room, and
 - (b) the ceiling height is suitable for, or does not unduly interfere with, the intended function of the room.

148 Separation of kitchen areas

A toilet must not be located in any room in a relocatable home that leads directly into a kitchen or other food preparation area unless the room containing the toilet is mechanically ventilated.

149 Lighting and ventilation

- (1) A relocatable home must have adequate provision for light and ventilation.
- (2) A habitable room must have natural lighting and natural ventilation provided by one or more windows to the outside air, or by one or more openings into an adjoining room, being windows or openings having:
 - (a) a total area of at least 10 per cent of the floor area of the room, and
 - (b) an area (being at least 5 per cent of the floor area of the room) that is capable of being opened.
- (3) If any part of the natural lighting or natural ventilation for a habitable room is provided by one or more openings into an adjoining room, the adjoining room must have natural lighting and ventilation provided by one or more windows that comply with subclause (2) in relation to the combined area of both rooms.

Subdivision 3 Construction

150 Termite shields

Shields, barriers or the like must be provided in accordance with AS 3660.1-2000 *Termite management—new building work* (as in force on 1 September 2005) to protect any structural members that are susceptible to attack by termites.

| | |
|------------|---|
| Clause 151 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

151 Glazing

Glazing materials must be selected and installed in accordance with the relevant provisions of AS 1288—1994, *Glass in buildings—Selection and installation* and, to the extent to which those provisions require the use of safety glass, in accordance with the relevant provisions of AS/NZS 2208:1996, *Safety glazing materials in buildings* (each as in force on 1 September 2005).

152 External waterproofing

The roof, external walls, door frames and window frames of a relocatable home must be constructed so as to prevent rain or dampness penetrating to the inner parts of the home.

153 Internal waterproofing

- (1) The floor of a bathroom, shower room or room containing a toilet or washing machine in a relocatable home must consist of, or be covered by, material that is impervious to water.
- (2) The wall surface of a shower enclosure (or, in the case of a shower that is not enclosed, any wall surface within 1.5 metres of the shower fitting) must be impervious to water to a height of at least 1.8 metres above the floor.
- (3) Any wall surface within 75 millimetres of a bath, basin or other similar bathroom appliance must be impervious to water to a height of at least 150 millimetres above the appliance.
- (4) Compliance with AS 3740—2004, *Waterproofing of wet areas within residential buildings* (as in force on 1 September 2005) satisfies the requirements of this clause.

154 Plumbing and drainage

All pipes and fittings in a relocatable home that relate to water supply, sewerage or stormwater drainage must be installed in accordance with:

- (a) the Plumbing and Drainage Code of Practice, and
- (b) the requirements of any relevant statutory body.

155 Electrical wiring

The electrical wiring in a relocatable home must comply with the requirements of AS/NZS 3000: 2000, *Electrical installations* (known as the Australian/New Zealand Wiring Rules) (as in force on 1 September 2005).

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|---|------------|
| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 156 |
| Caravan parks, camping grounds and moveable dwellings | Part 3 |

156 Fire and smoke alarms

- (1) A relocatable home must be equipped with an automatic fire detection and alarm system that complies with the requirements of Part 3.7.2 of Volume Two of the *Building Code of Australia* in relation to class 1 (a) buildings within the meaning of that Code.
- (2) This clause does not apply to a relocatable home that was constructed before 1 January 1996, whether installed before, on or after that date.
- (3) This clause is repealed on the commencement of a regulation made under section 146A of the *Environmental Planning and Assessment Act 1979* that applies to a relocatable home.

Subdivision 4 Installation

157 Footings

- (1) A relocatable home or associated structure must be installed on footings if the engineer's certificate for the home or structure so requires.
- (2) The footings and tie-down system for the relocatable home or associated structure must be constructed in accordance with the engineer's certificate for the home or structure.
- (3) In the case of a relocatable home or associated structure that is placed on footings, the clearance beneath the home or structure must be:
 - (a) at least 400 millimetres, where termite shields are required to be installed, or
 - (b) at least 200 millimetres, where termite shields are not required to be installed, or
 - (c) such lesser clearance as the approval for the caravan park may allow,
 with adequate provision for underfloor cross-flow ventilation.
- (4) The clearance beneath the relocatable home is to be measured from the lowest point of the underside of the home's chassis or frame.

158 Installation to comply with specifications

A relocatable home or associated structure must not be installed on a dwelling site otherwise than in accordance with:

- (a) the specifications contained in the engineer's certificate issued in respect of the relocatable home or associated structure, or
- (b) such other specifications as are specified in the approval for the caravan park.

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|------------|---|
| Clause 159 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

159 Compliance plates

- (1) A compliance plate must be attached to an accessible part of each of the following structures:
 - (a) a relocatable home,
 - (b) an associated structure that forms part of a relocatable home,
 - (c) an associated structure that comprises a free-standing garage.
- (2) A compliance plate must specify the following:
 - (a) the name of the manufacturer of the relocatable home or associated structure,
 - (b) the unique identification number for each major section of the relocatable home,
 - (c) the month and year during which the relocatable home or associated structure was constructed,
 - (d) the design gust wind speed for the relocatable home or associated structure,
 - (e) a statement to the effect that the relocatable home or associated structure complies with the requirements of this Division,
 - (f) the name of the practising structural engineer by whom the engineer's certificate has been issued in respect of the relocatable home,
 - (g) whether a relocatable home is intended for use as a park van or holiday van.
- (3) A unique identification number must be permanently marked on each major section of the relocatable home.
- (4) The Minister may, by order published in the Gazette, issue specifications for the design, construction, issue and registration of compliance plates for the purposes of this clause.
- (5) A compliance plate must be designed, constructed, issued and registered in accordance with any specifications in force under this clause.

160 Notice of installation of relocatable home or associated structure

- (1) The holder of an approval to operate a caravan park or camping ground must give the council written notice of the installation of a relocatable home or associated structure within 7 days after the completion of the installation.

| | |
|---|------------|
| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 161 |
| Caravan parks, camping grounds and moveable dwellings | Part 3 |

- (2) The notice:
- (a) must indicate the site identifier of the dwelling site on which the relocatable home or associated structure has been installed, and
 - (b) must include the particulars contained on each compliance plate relating to the relocatable home or associated structure.
- (3) The notice must also be accompanied by:
- (a) a copy of the engineer's certificate for the relocatable home or associated structure, and
 - (b) a fully dimensioned diagram of the dwelling site on which the relocatable home or associated structure is installed, sufficient to indicate whether or not the setback, density, open space and site delineation requirements of this Part have been complied with.

Division 5 Caravans, tents and annexes

Subdivision 1 Caravans

161 Setbacks for tents, caravans and associated structures and annexes

A tent or caravan (including any associated structure or annexe) must not be located:

- (a) closer than one metre to an access road, or
- (b) closer than 2 metres to the boundary of the camping ground or caravan park.

162 Site coverage

- (1) A tent or caravan (including any associated structure or annexe) must not be installed on a single dwelling site if the floor area of the tent or caravan (including any associated structure or annexe) is more than two-thirds of the area of the site.
- (2) If there is no carport or garage on the dwelling site, an area with minimum dimensions of 6 metres by 3 metres, accessible from an access road and useable for car parking, must be provided on the site.
- (3) Subclause (2) does not apply if the resident's parking space for that dwelling site is separate from the site.

163 Maintenance

A caravan (including any associated rigid annexe) that is installed in a caravan park must be maintained in a condition that is safe and healthy for persons to use.

| | |
|------------|---|
| Clause 164 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

164 One caravan per dwelling site

- (1) No more than one caravan may be installed on a single dwelling site.
- (2) A caravan must not be installed on a dwelling site on which a relocatable home is installed.

165 Running gear

In the case of a caravan that is situated on flood liable land, the wheels, axles and draw bar of the caravan must not be removed, but must be maintained in proper working order.

Subdivision 2 Annexes

166 Structural soundness

- (1) A rigid annexe must be of a design certified by a practising structural engineer to be structurally sound.
- (2) A certificate issued under this clause:
 - (a) must indicate that the rigid annexe complies with any standards, codes and specifications with which it is, by this Part, required to comply, and
 - (b) must include specifications as to the manner in which the rigid annexe must be installed and as to the nature of the footings (if any) on which it must be installed.
- (3) Any specifications with respect to footings or tie-down systems must have regard to the design gust wind speed, soil type and other design considerations applicable to the various locations in which the annexe may be installed.

167 Design gust wind speed

A rigid annexe must be designed to resist loads as determined in accordance with the following design codes, as appropriate:

- (a) AS/NZS 1170.1:2002, *Structural design actions Part 1: Permanent, imposed and other actions*, as in force on 1 September 2005,
- (b) AS/NZS 1170.2:2002, *Structural design actions Part 2: Wind actions*, as in force on 1 September 2005, or AS 4055—1992 *Wind loads for housing*, as in force on 1 September 2005 (except that the design gust wind speed for the area where the manufactured home or associated structure is located is not to be taken to be less than 41 metres per second),
- (c) AS 1170.3—1990, *Minimum design loads on structures Part 3: Snow loads*, as in force on 1 September 2005,

| | |
|---|------------|
| Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 | Clause 168 |
| Caravan parks, camping grounds and moveable dwellings | Part 3 |

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- (d) AS 1170.4—1993, *Minimum design loads on structures* Part 4: *Earthquake loads*, as in force on 1 September 2005.

168 Glazing

Glazing materials in an annexe must be selected and installed in accordance with the relevant provisions of AS 1288—1994, *Glass in buildings—Selection and installation* and, to the extent to which those provisions require the use of safety glass, in accordance with the relevant provisions of AS/NZS 2208: 1996, *Safety glazing materials in buildings*, each as in force on 1 September 2005.

169 Floor area

- (1) The enclosed floor area of all annexes that are attached to a caravan must not exceed the enclosed floor area of the caravan.
- (2) For the purposes of this clause, the floor area of a caravan that has a maximum internal width of less than 3.1 metres must be determined as if that width were 3.1 metres.

170 Installation of rigid annexe

A rigid annexe must be installed in accordance with the specifications contained in the certificate issued under clause 166.

Subdivision 3 General

171 Wind resistance

Any caravan that is installed on a long-term site for more than 150 days and any holiday van or park van that is installed on a dwelling site must be restrained in accordance with the specifications of a practising structural engineer to withstand the wind forces applicable to the terrain category in which the dwelling site is located.

172 Compliance plates to be attached

- (1) A compliance plate must be attached to an accessible part of any rigid annexe.
- (2) A compliance plate must specify the following:
 - (a) the name of the manufacturer of the rigid annexe,
 - (b) the month and year during which the rigid annexe was constructed,
 - (c) the design gust wind speed for the rigid annexe,
 - (d) a statement to the effect that the rigid annexe complies with the requirements of this Division,

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|------------|---|
| Clause 173 | Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 |
| Part 3 | Caravan parks, camping grounds and moveable dwellings |

- (e) the name of the practising structural engineer by whom the engineer's certificate has been issued in respect of the rigid annexe.

173 Notice of completion of installation

- (1) The holder of an approval to operate a caravan park or camping ground must give the council written notice of the installation of a rigid annexe within 7 days after its completion.
- (2) The notice:
 - (a) must indicate the site identifier of the dwelling site on which the rigid annexe has been installed, and
 - (b) must include the particulars contained on the compliance plate relating to the rigid annexe.
- (3) The notice must also be accompanied by:
 - (a) a copy of the engineer's certificate for the rigid annexe, and
 - (b) a fully dimensional diagram of the dwelling site on which the rigid annexe is installed, sufficient to indicate whether or not the setback, density, open space and site delineation requirements of this Part have been complied with.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Clause 174

Miscellaneous

Part 4

Part 4 Miscellaneous

174 Inspections

In exercising its powers under the Act to enter and inspect a manufactured home estate, a caravan park or a camping ground, the council must ensure that the inspection is carried out, so far as practicable, in company with the holder of the approval for the manufactured home estate, caravan park or camping ground or an agent of the holder of that approval.

175 Savings

Any act, matter or thing that, immediately before the repeal of the *Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995* or the *Local Government (Manufactured Home Estates and Manufactured Homes) Regulation 1995*, had effect under either of those Regulations is taken to have effect under this Regulation.

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Regulations (*continued*)



New South Wales

Local Government (General) Regulation 2005

under the

Local Government Act 1993

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

KERRY HICKEY, M.P.,
Minister for Local Government

Explanatory note

The object of this Regulation is to remake (with some alteration), and consolidate, the following Regulations, each of which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*:

- (a) *Local Government (Approvals) Regulation 1999*,
- (b) *Local Government (Elections) Regulation 1998*,
- (c) *Local Government (Financial Management) Regulation 1999*,
- (d) *Local Government (General) Regulation 1999*,
- (e) *Local Government (Meetings) Regulation 1999*,
- (f) *Local Government (Orders) Regulation 1999*,
- (g) *Local Government (Rates and Charges) Regulation 1999*,
- (h) *Local Government (Tendering) Regulation 1999*,
- (i) *Local Government (Water Services) Regulation 1999*.

This Regulation refers to the *Building Code of Australia*, the *Plumbing and Draining Code of Practice* and certain manuals, guidelines and Australian Standards.

This Regulation is made under the *Local Government Act 1993*, including section 748 and Schedule 6 (the general regulation-making power).

The following provisions of this Regulation comprise or relate to matters of a machinery nature:

- (a) Division 3 (Payment of rates and charges) of Part 5,
- (b) Part 10 (Meetings),

Local Government (General) Regulation 2005

Explanatory note

- (c) Part 11 (Elections),
- (d) Part 12 (Penalty notices) and Schedule 12,
- (e) Division 8 (Bathing control notices (section 633)) of Part 13.

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Local Government (General) Regulation 2005

Clause 1

Preliminary

Part 1

Local Government (General) Regulation 2005

under the

Local Government Act 1993

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Local Government (General) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation is a consolidation of nine Regulations under the *Local Government Act 1993*, each of which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

building includes a proposed building.

Building Code of Australia has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

Category 1 business activity has the same meaning as in the Pricing and Costing Guidelines.

Category 2 business activity has the same meaning as in the Pricing and Costing Guidelines.

class followed by a numeral, in relation to a building, means a building of that class under the *Building Code of Australia*.

comprehensive state of the environment report means a council's comprehensive report as to the state of the environment referred to in section 403 (2) of the Act.

environmentally sensitive area includes:

- (a) land or an area listed in the definition of **environmentally sensitive area** in Part 4 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*, and
- (b) any land or area:
 - (i) within 100 metres of a natural waterbody, wetland or coastal dune field, or

Clause 3 Local Government (General) Regulation 2005

Part 1 Preliminary

- (ii) with a high watertable, or
- (iii) with highly permeable soils or acid sulphate, sodic or saline soils, or
- (iv) within a drinking water catchment, or
- (v) within the water catchment area of an estuary where the entrance to the sea is intermittently open.

house drain means that part of the sewerage service that conveys (or is intended to convey) the discharges from soil pipes and waste pipes on premises.

house service pipe means such part of a water service pipe as is not a property service pipe.

inspector means an employee of the council who is an authorised person for the purposes of exercising the functions of an inspector under this Regulation.

interceptor trap or **boundary trap** means a trap for preventing the passage of air or gases from the sewer to the house drain, being a trap located at some point between the sewer and the lowest inlet of the house drain.

licensed contractor, in relation to carrying out water supply, sewerage or drainage work, means the holder of a contractor licence in force under the *Home Building Act 1989* that authorises the holder to carry out that work.

Liquid Trade Waste Management Guidelines means the Guidelines of that name produced by the Department of Energy, Utilities and Sustainability in March 2005, as in force from time to time.

Local Aboriginal Land Council means a Local Aboriginal Land Council constituted under the *Aboriginal Land Rights Act 1983*.

Manual of Authorization Procedures means the *Manual of authorization procedures for plumbing and drainage products* (MP 52–2005) published by Standards Australia.

New South Wales Aboriginal Land Council means the New South Wales Aboriginal Land Council constituted under the *Aboriginal Land Rights Act 1983*.

pan means any moveable receptacle kept in a closet and used for the reception of human waste.

penalty notice means a notice served under section 679 of the Act.

Plumbing and Drainage Code of Practice means the *New South Wales Code of Practice—Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in New South Wales, as in force from time to time.

Local Government (General) Regulation 2005

Clause 3

Preliminary

Part 1

Pricing and Costing Guidelines means the document entitled *Pricing & Costing for Council Businesses—A Guide to Competitive Neutrality* issued by the Department in July 1997, as in force from time to time.

principles of competitive neutrality has the same meaning as in the Pricing and Costing Guidelines.

property service pipe means such part of a water service pipe as lies between the service main and the water meter or, if there is no water meter, the boundary of the premises served by the service pipe.

public sewer means a sewer operated by a council or a county council, a water supply authority (within the meaning of the *Water Management Act 2000*), a State owned corporation specified in Schedule 1 or 5 to the *State Owned Corporations Act 1989* (or a subsidiary of such a corporation) or any other public or local authority.

qualified supervisor, in relation to the carrying out of water supply, sewerage or drainage work, means the holder of an endorsed contractor licence or supervisor certificate in force under the *Home Building Act 1989* authorising the holder to carry out or to supervise that work.

related effluent application area, in relation to a sewage management facility, means the area of land (if any):

- (a) where it is intended to dispose of the effluent and any by-products of sewage from the facility, or
- (b) to which the effluent and by-products are intended to be applied.

septic tank means a fixed receptacle of watertight material used in connection with the storage or bacterial treatment of sewage.

service main means a water main or a sewer main.

sewage includes any effluent of the kind referred to in paragraph (a) of the definition of **waste** in the Dictionary to the Act.

sewage management facility means:

- (a) a human waste storage facility, or
- (b) a waste treatment device intended to process sewage, and includes a drain connected to such a facility or device.

sewage of a domestic nature includes human faecal matter and urine and waste water associated with ordinary kitchen, laundry and ablution activities of a household, but does not include waste in or from a sewage management facility.

sewer main means a sewer main forming part of the council's sewerage system, and:

- (a) includes risers or junctions provided by the council to enable a sewerage service to be connected to the main, and

Clause 3 Local Government (General) Regulation 2005

Part 1 Preliminary

- (b) if the main is located outside premises that are to be served—includes risers and the sewers and fittings connecting the main to the premises, but only up to the boundary of the premises or, if a boundary trap or interceptor trap is installed, up to the trap.

sewerage service, in relation to premises:

- (a) means the pipes, fittings or fixtures used or intended to be used in connection with the premises for the purpose of conveying sewage or permitted discharges from the premises to the council's sewerage system, and
- (b) if a septic tank is installed on the premises and connects or is intended to connect (directly or indirectly) with the council's sewerage system—includes a septic tank (other than a septic tank intended to discharge to a related effluent application area), an effluent tank or a sullage tank.

soil pipe means any pipe that conveys the discharge from human waste storage facilities, or from operating theatres or morgues, to the house drains.

state of the environment report means a report as to the state of the environment referred to in section 428 (2) (c) of the Act.

supplementary state of the environment report means a state of the environment report that is not a comprehensive state of the environment report.

the Act means the *Local Government Act 1993*.

trade waste means all liquid waste other than sewage of a domestic nature.

trap means any fitting designed to retain a quantity of water to prevent the passage of air or gases through such fitting.

waste pipe means any pipe that conveys discharges to a house drain from fixtures (other than human waste storage facilities) or operating theatres or morgues.

water main means a water main forming part of the council's water supply system, and, if premises are or are to be connected to the main, includes water pipes and fittings connecting the main to the premises to the point within the premises at which the water meter is or is to be installed.

water service pipe means a pipe that connects premises to a water main.

- (2) Expressions used in this Regulation that are defined in the *Building Code of Australia* (but not defined in the Act or this Regulation) have the meanings set out in the Code.

Local Government (General) Regulation 2005

Clause 4

Preliminary

Part 1

-
- (3) For the purposes of this Regulation:
- (a) a reference in the *Building Code of Australia* to the **appropriate authority** is a reference to the relevant authority exercising approval powers under the Act, and
 - (b) the reference in the *Building Code of Australia* in the definition of **Certificate of Accreditation** to a State or Territory accreditation authority is a reference to the Director-General when exercising his or her functions under Division 5 of Part 1 of Chapter 7 (sections 120–123B) of the Act.
- (4) Notes included in this Regulation do not form part of this Regulation.

4 Application of Regulation

Except as elsewhere provided in this Regulation, this Regulation:

- (a) applies to those parts of the State that are constituted as areas for the purposes of the Act, and
- (b) applies to county councils in the same way as it applies to councils.

Clause 5 Local Government (General) Regulation 2005

Part 2 Approvals

Part 2 Approvals

Division 1 Preliminary

5 Exclusion of certain matters

This Part does not apply to:

- (a) the installation of manufactured homes, moveable dwellings or associated structures on land, or
- (b) the operation of manufactured home estates, caravan parks or camping grounds.

Note. The operation of manufactured home estates and the installation of manufactured homes in manufactured home estates, and the operation of caravan parks and camping grounds and the installation of moveable dwellings (including manufactured homes) both in caravan parks and camping grounds and elsewhere, are governed by the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*.

Division 2 Approvals relating to the installation of temporary structures and the use of buildings or temporary structures as places of public entertainment

6 Matters to be taken into consideration by council in determining whether to approve the installation of a temporary structure on land

- (1) In determining an application for approval to install a temporary structure on land the council must take into consideration:
 - (a) whether the structure:
 - (i) will be structurally sound and capable of withstanding the loadings likely to arise from its use, and
 - (ii) will contain reasonable provision for the safety of persons proposed to be accommodated in the structure, in the event of fire, particularly in relation to egress, and
 - (iii) will contain reasonable provision for the prevention or suppression of fire and the prevention of the spread of fire, and
 - (b) whether the ground or other surface on which the structure is to be erected is sufficiently firm to sustain the structure while it is being used and is not dangerous because of its slope or irregularity or for any other reason.
- (2) Subclause (1) (a) does not apply to a temporary structure that is accredited under Division 5 of Part 1 of Chapter 7 of the Act.

Local Government (General) Regulation 2005

Clause 7

Approvals

Part 2

7 Matters to be taken into consideration by council in determining whether to approve the use of a building or temporary structure as a place of public entertainment

- (1) In determining an application for approval to use a building or temporary structure as a place of public entertainment the council must take the following matters into consideration:
 - (a) whether any consent required under the *Environmental Planning and Assessment Act 1979* for the use of the building or structure for the purpose has been given,
 - (b) whether the use of the building or structure for the purpose contravenes provisions of that Act or of any environmental planning instrument within the meaning of that Act, in so far as the Act or instrument applies to the land.
- (2) If the application relates to an existing building or temporary structure, the council must not approve the use of the building or structure as a place of public entertainment unless the council, having regard to the circumstances of the case, is of the opinion that the building or structure, with such alterations as it may require:
 - (a) will be structurally sound and capable of withstanding the loadings likely to arise from the use, and
 - (b) will contain reasonable provision for the safety of persons proposed to be accommodated in the building or structure, in the event of fire, particularly in relation to egress, and
 - (c) will contain reasonable provision for the prevention or suppression of fire and the prevention of the spread of fire.

8 Standards to be met for approval

Subject to clause 9, the council must not grant an application for an approval referred to in Part A of the Table to section 68 of the Act unless it is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

9 Conditions of approval

- (1) It is a condition of an approval referred to in Part A of the Table to section 68 of the Act that the activity approved, and any building or work associated or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Act.

Clause 10 Local Government (General) Regulation 2005

Part 2 Approvals

-
- (2) However, the council may approve the use of an existing building as a place of public entertainment without the building being made to comply with the Act and the provisions applicable to that use (provisions EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 of Volume One of the *Building Code of Australia* excepted) if the council, having regard to the circumstances of the case, is of the opinion that the building, with such alterations as it may require, satisfies clause 7 (2).
 - (3) Despite subclause (2), the council may approve the use of an existing building as a place of public entertainment without the building's being made to comply with the provisions of EP1.3, EP1.4, EP1.6, EP2.2 and EP3.2 of Volume One of the *Building Code of Australia* if the council has received a report from the Commissioner of New South Wales Fire Brigades to the effect that, in the opinion of the Commissioner, the building might be exempted from being made to comply with those provisions.
 - (4) An approval granted under subclause (3) must be granted subject to any conditions that the Commissioner might recommend.

10 Places of public entertainment and temporary structures

It is a condition of an approval to use or permit the use of a building or temporary structure as a place of public entertainment that the provisions of Part 1 of Schedule 1 are complied with.

11 Adoption of Building Code of Australia

- (1) The standards for activities specified in item 3 of Part A of the Table to section 68 of the Act (Use a building or temporary structure as a place of public entertainment or permit its use as a place of public entertainment) that are approved and the standards that are to be met in order for such activities to be approved are (apart from any standards set out in this Regulation) the relevant provisions of:
 - (a) the *Building Code of Australia*, if the activity is the use, or permitting the use, of a building as a place of public entertainment, or
 - (b) Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia*, if the activity is the use, or permitting the use, of a temporary structure as a place of public entertainment.
- (2) In the event of an inconsistency between the provisions of the *Building Code of Australia* and the provisions of this Regulation, the provisions of this Regulation apply.
- (3) This clause does not limit the operation of any other law governing the construction, maintenance, management or use of a building.

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12 Activities for which approval is not required

The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

(a) **Use of temporary structures as places of public entertainment**

The use of a temporary structure as a place of public entertainment, or the permission of the use of a temporary structure as a place of public entertainment, if:

- (i) the installation of the temporary structure on the land on which it is situated is the subject of an approval, and
- (ii) the temporary structure is accredited under Division 5 of Part 1 of Chapter 7 of the Act, and
- (iii) any conditions to which the accreditation is subject are complied with at all times while the temporary structure is being used as a place of public entertainment, and
- (iv) the provisions of Part 1 of Schedule 1 are complied with at all times while the temporary structure is being used as a place of public entertainment.

(b) **Use of class 9b buildings for public meetings**

The use of a building that is a class 9b building for the purpose of a public meeting, or the permission of the use of such a building for that purpose.

Division 3 Approvals relating to water supply, sewerage and stormwater drainage work

Subdivision 1 Applications for approvals

13 Standards and requirements to be met for approval

The council must not approve an application for an approval allowing water supply, sewerage or stormwater drainage work to be carried out unless it is satisfied that the activity as proposed to be carried out will comply with any applicable standards set out or referred to in Part 2 of Schedule 1 and with any other applicable standards or requirements set out or referred to in this Regulation.

14 Installation of water meters

A council may require an application for an approval relating to the installation of a water meter to be accompanied by a completed water meter identification form provided by the council for the purpose.

Clause 15 Local Government (General) Regulation 2005

Part 2 Approvals

15 Matters to be considered when determining applications for water supply, sewerage and stormwater drainage approvals

- (1) This clause applies to the following activities:
- (a) carrying out water supply work,
 - (b) drawing water from the council water supply or a standpipe,
 - (c) installing, altering, disconnecting or removing a water meter connected to a service pipe,
 - (d) carrying out sewerage work,
 - (e) carrying out stormwater drainage work.
- (2) In determining an application for the purposes of section 68 of the Act for an approval to do any of the activities to which this clause applies, the council must have regard to the following considerations:
- (a) the protection and promotion of public health,
 - (b) the protection of the environment,
 - (c) the safety of its employees,
 - (d) the safeguarding of its assets,
 - (e) any other matter that it considers to be relevant in the circumstances.

Subdivision 2 Conditions of approvals

16 Approvals to be subject to a condition requiring compliance with standards and requirements

It is a condition of an approval allowing water supply, sewerage or stormwater drainage work that:

- (a) the activity approved, and
- (b) any building or work associated or carried out in connection with the activity,

complies with any applicable standards set out or referred to in Part 2 of Schedule 1 and with any other applicable standards or requirements set out or referred to in this Regulation or any other regulation under the Act or the *Environmental Planning and Assessment Act 1979*.

17 Discretionary conditions for carrying out water supply work

The council may, in giving an approval to carry out water supply work, impose either or both of the following conditions:

- (a) a condition that requires the work to be carried out within such time as the council considers reasonable,

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- (b) a condition that requires a qualified supervisor to attend at the place at which the work is carried out at such times as the council directs.

18 Connection to water or sewerage mains

- (1) It is a condition of an approval for an activity that involves the connection of water service pipes or property service pipes to a water main or the connection of drains to a sewer main that the connection must:
 - (a) comply with any operating requirements notified by the council, and
 - (b) be carried out:
 - (i) by a person authorised by the council, or
 - (ii) by or under the control of a council officer.
- (2) The council may, as a condition of approving the connection to a water or sewer main, require that the connection must not be started unless at least 2 days' notice of intention to start the work has been given to the council.

19 Cutting into sewer main

- (1) It is a condition of an approval for an activity that involves the cutting of a junction into a sewer main that the cutting of the junction must:
 - (a) comply with any operating requirements notified by the council, and
 - (b) be carried out by a qualified supervisor acting under the supervision and in accordance with the directions of the council.
- (2) The council may, as a condition of an approval for a junction to be cut into a sewer main, direct that the work must not be started unless at least 2 days' notice of intention to start the work has been given to the council.
- (3) The council may, as a condition of an approval for a junction to be cut into a sewer main, require the work to be carried out by the council for a specified charge if the council has decided that the work should be carried out by the council.

Clause 20 Local Government (General) Regulation 2005

Part 2 Approvals

20 Person carrying out water supply, sewerage or stormwater drainage work to hold permit

It is a condition of an approval referred to in item 1, 4, 5 or 6 of Part B of the Table to section 68 of the Act that a person must not begin carrying out the activity approved unless the person is the holder of a permit issued in accordance with the Plumbing and Drainage Code of Practice.

21 Inspection and certification of water supply, sewerage and stormwater drainage work

An approval referred to in item 1, 4, 5 or 6 of Part B of the Table to section 68 of the Act is subject to the following conditions:

- (a) a person must not put into use a soil, waste or house drain pipe, or cover up or conceal from view an underground or enclosed water supply, sewerage or stormwater drainage work or put into use such a work, until the work has been inspected and certified:
 - (i) by the council or a suitably qualified person determined by the council, or
 - (ii) if the work is of a type for which the approval of the Minister for Utilities is required under section 60 of the Act—in accordance with subparagraph (i) or, if that Minister has specifically authorised inspection and certification by another suitably qualified person, by that person,
as having been constructed in accordance with the Act and this Regulation,
- (b) any such inspection and certification must be carried out in accordance with the Plumbing and Drainage Code of Practice and the requirements of the council,
- (c) a person undertaking the construction of a water supply, sewerage or stormwater drainage work must provide every reasonable facility and all necessary information to enable inspection of the work for the purposes of paragraph (a),
- (d) in particular, such a person must, if required to do so by a person carrying out an inspection for the purposes of paragraph (a), produce the plan (if any) of the work for that person to look at,
- (e) a person carrying out water supply, sewerage or stormwater drainage work must immediately rectify to the satisfaction of the council any defect revealed by an inspection under paragraph (a).

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22 Defective water supply, sewerage or stormwater drainage work to be rectified

- (1) It is a condition of an approval referred to in item 1, 4, 5 or 6 of Part B of the Table to section 68 of the Act that a licensed contractor who carries out the activity approved must, if ordered to do so by the council, rectify any defect in the work that is due to faulty workmanship or defective material, but only if the council notifies the contractor of the defect after the date of issue by the contractor of a certificate to the effect that the work has been carried out as required by the Act and the *Environmental Planning and Assessment Act 1979*.
- (2) A licensed contractor so notified must bear the cost of rectifying the defect.

23 Diagrams of sewerage or stormwater drainage work

- (1) It is a condition of an approval referred to in item 4 or 5 of Part B of the Table to section 68 of the Act that, if the activity approved is carried out on private premises, the person who carries out the activity must provide to the council a diagram of any drains installed in accordance with the approval.
- (2) Such a diagram must show:
 - (a) the level of the drains in relation to the sewer main junction and the finished ground level, and
 - (b) the distances from the drains to the nearest boundaries of, and buildings on, the premises.

Subdivision 3 Exemption

24 Approval not required for the drawing of water by council employees

An employee of a council acting in the course of his or her employment may draw water from a water supply system or standpipe without the prior approval of the council.

Division 4 Approvals relating to management of waste

Subdivision 1 Applications for approvals

25 Matters to accompany applications relating to discharge into sewers

An application for approval to discharge trade waste into a sewer under the control of a council or that connects with such a sewer must be accompanied by the information required by Table 1 to the Liquid Trade Waste Management Guidelines.

Clause 26 Local Government (General) Regulation 2005

Part 2 Approvals

26 Matters to accompany applications for approval to install or construct sewage management facilities

- (1) An application for approval to install or construct a sewage management facility on any premises must be accompanied by the documents specified in this clause.
- (2) **Plan**

The application must be accompanied by a plan, to scale, showing the location of:

 - (a) the sewage management facility proposed to be installed or constructed on the premises, and
 - (b) any related effluent application areas, and
 - (c) any buildings or facilities existing on, and any environmentally sensitive areas of, any land located within 100 metres of the sewage management facility or related effluent application areas, and
 - (d) any related drainage lines or pipework (whether natural or constructed).
- (3) **Specifications**

The application must be accompanied by full specifications of the sewage management facility proposed to be installed or constructed on the premises concerned.
- (4) **Site assessment**

The application must be accompanied by details of the climate, geology, hydrogeology, topography, soil composition and vegetation of any related effluent application areas together with an assessment of the site in the light of those details.
- (5) **Statement**

The application must be accompanied by a statement of:

 - (a) the number of persons residing, or probable number of persons to reside, on the premises, and
 - (b) such other factors as are relevant to the capacity of the proposed sewage management facility.
- (6) **Operation and maintenance**

The application must be accompanied by details of:

 - (a) the operation and maintenance requirements for the proposed sewage management facility, and

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- (b) the proposed operation, maintenance and servicing arrangements intended to meet those requirements, and
 - (c) the action to be taken in the event of a breakdown in, or other interference with, its operation.
- (7) This clause does not apply to an application for approval to install or construct a sewage management facility on any premises if the applicant declares in the application that the facility will remain on the premises for no more than 12 months.

Note. The information that is to accompany such applications (and applications for approval to *alter* a sewage management facility) is to be determined by the council in each particular case. Section 81 of the Act provides that an application for an approval under Part 1 of Chapter 7 of that Act (in which category such applications fall) must be accompanied by “such matters as may be prescribed by the regulations and such matters specified by the council as may be necessary to provide sufficient information to enable the council to determine the application”.

Subdivision 2 Determination of applications for approvals

27 Matters to be taken into consideration by council in determining applications for approval to place a building waste storage container on a road

In determining an application for approval to place on a road a building waste storage container, the council is to take into consideration any requirements or guidelines relating to the location, size and visibility of building waste storage containers that are notified to the council from time to time by the Roads and Traffic Authority.

28 Approval to discharge waste into sewers: concurrence required

A council must not grant an approval under section 68 of the Act to discharge trade waste (whether treated or not) into a sewer of the council unless the Director-General of the Department of Energy, Utilities and Sustainability has concurred with the approval.

Note. Section 90 (2) of the Act permits any person or authority whose concurrence is required before an approval may be granted to give the council notice that the concurrence may be assumed (with such qualifications or conditions as are specified in the notice).

29 Matters to be taken into consideration in determining applications for approval to install, construct or alter sewage management facilities

- (1) In determining an application for approval to install, construct or alter a sewage management facility, the council must take into consideration the matters specified in this clause.

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(2) **Environment and health protection matters**

The council must consider whether the proposed sewage management facility (or the proposed sewage management facility as altered) and any related effluent application area will make appropriate provision for the following:

- (a) preventing the spread of disease by micro-organisms,
- (b) preventing the spread of foul odours,
- (c) preventing contamination of water,
- (d) preventing degradation of soil and vegetation,
- (e) discouraging insects and vermin,
- (f) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,
- (g) the re-use of resources (including nutrients, organic matter and water),
- (h) the minimisation of any adverse impacts on the amenity of the land on which it is installed or constructed and other land in the vicinity of that land.

(3) **Guidelines and directions**

The council must consider any matter specified in guidelines or directions issued by the Director-General in relation to the matters referred to in subclause (2).

30 Standards to be met for approval

The council must not grant an application for an approval to install, construct or alter a waste treatment device or sewage management facility unless it is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

Subdivision 3 Conditions of approvals

31 Compliance with standards

- (1) It is a condition of an approval referred to in item 4 of Part C of the Table to section 68 of the Act (Dispose of waste into a sewer of the council) that:
 - (a) the activity approved, and

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(b) any building or work associated or carried out in connection with the activity,

complies with any applicable standards established by any regulation in force under the Act or the *Environmental Planning and Assessment Act 1979*.

(2) It is a condition of an approval referred to in item 5 of Part C of the Table to section 68 of the Act (Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility) that:

(a) the activity approved, and

(b) any building or work associated or carried out in connection with the activity,

complies with any applicable standards established by this Regulation or by or under the Act.

32 Disposal of trade waste

(1) An approval to dispose of trade waste into a sewer of the council is subject to such conditions (if any) as the council specifies in the approval.

(2) In imposing any such conditions, the council is to have regard to the matter set out in Table 5 to the Liquid Trade Waste Management Guidelines.

33 Waste treatment devices

(1) It is a condition of an approval to install, construct or alter a mechanical device that treats waste by compaction, shredding or other means that this clause is complied with.

(2) An occupier of premises on which waste is deposited must comply with any directions given by the council from time to time as to the use of the device.

(3) The waste treatment device and any part of the premises on which it is situated that is used in connection with the device must be maintained in a sanitary condition.

34 Use of sewage management facilities

It is a condition of an approval to install, construct or alter a sewage management facility that the facility is not used (or used as altered) until the council has given the applicant for approval notice in writing that it is satisfied that the facility has been installed, constructed or altered in substantial accordance with the approval.

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35 Position of closets

The council may, as a condition of an approval to install, construct or alter a human waste storage facility, require the alteration of its design and proposed position, having regard to its effect on the amenity of the locality.

Subdivision 4 Performance standards

36 Sewage management facilities generally

A sewage management facility:

- (a) must be made of durable and non-corrosive components, each having an expected service life of at least:
 - (i) 5 years, in the case of a mechanical or electrical component, and
 - (ii) 15 years, in any other case, and
- (b) must be installed or constructed:
 - (i) in accordance with the appropriate specifications and in accordance with good trade practice, and
 - (ii) so as to allow ease of access for maintenance, and
 - (iii) with regard to the health and safety of users, operators and persons maintaining the facility, and
- (c) must be installed or constructed so as to make appropriate provision for access to and removal of contents in a safe and sanitary manner, and
- (d) must, if it is intended to be a permanent fixture, be anchored to prevent movement.

37 Closets for certain toilet systems

- (1) A human waste storage facility must not be installed in any part of a building unless that part of the building complies with the following requirements:
 - (a) it is adequately ventilated to the outside air,
 - (b) the walls and roof are of weatherproof material,
 - (c) the floor is of material that is impervious to water and is drained.
- (2) The part of the building in which a human waste storage facility (other than a water closet) is permanently installed must be designed and located so as to allow human waste to be removed without being carried through any dwelling-house or public building or any building in which any person may be, or may be intended to be, employed in any manufacture, trade or business.

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38 Cesspits

- (1) A cesspit:
 - (a) must be deep, dark and fly-proof, and
 - (b) must be constructed and maintained so as to prevent both the access of surface waters to it and the escape of matter from it, and
 - (c) must not be located where it can possibly pollute any water used or likely to be used for human consumption or for any domestic or dairy purposes, and
 - (d) must not be located where the normal level of the ground water is less than one metre below the bottom of the cesspit.
- (2) If a cesspit is emptied, its contents must be disposed of in a sanitary manner and in accordance with any requirements of the council.

39 Mechanical waste treatment devices

- (1) A bag used for the retention of waste in a mechanical device that treats waste by compaction, shredding or other means must be of a kind approved by the council.
- (2) Treated waste kept on premises after treatment other than wholly within the device is to be deposited in a receptacle of a kind approved by the council.

Subdivision 5 Accreditation of sewage management facilities

40 Application of Subdivision

- (1) This Subdivision applies to such models of the following sewage management facilities as are generally available for purchase by retail:
 - (a) wet composting closets,
 - (b) waterless composting closets,
 - (c) septic closets,
 - (d) septic tanks,
 - (e) holding tanks and collection wells used for the receipt and storage of effluent (other than those intended to be emptied after each use, such as chamber pots),
 - (f) waste treatment devices designed to comminute or macerate and discharge sewage to a sewerage system,
 - (g) waste treatment devices that receive and treat sewage before discharging effluent to a common effluent drainage scheme,

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- (h) waste treatment devices that treat sewage using a specific process to produce biosolids and disinfected effluent to a standard suitable, either separately or in combination, for recycling by surface or sub-surface irrigation or by internal or external household use,
 - (i) any other kind of sewage management facility specified in a notice published in the Gazette by the Director-General for the purposes of this clause.
- (2) However, this Subdivision does not apply:
- (a) to a sewage management facility intended to treat:
 - (i) sewage of a non-domestic nature, or
 - (ii) sewage from premises normally occupied by more than 10 persons, or
 - (iii) an average daily flow of sewage exceeding 2,000 litres, or
 - (b) to the part of a sewage management facility that consists of a drain connected to the facility, or
 - (c) to any other component of a sewage management facility that is specified in a notice published in the Gazette by the Director-General of the Department of Health for the purposes of this clause.

41 Facilities to be accredited

- (1) The council must not approve the installation or construction of a sewage management facility to which this Subdivision applies unless the council is satisfied that the facility is to be installed or constructed to a design or plan that is the subject of a certificate of accreditation from the Director-General of the Department of Health, being a certificate that is in force.
- (2) Subclause (1) does not apply to or in respect of a sewage management facility:
 - (a) that is to be installed or constructed as a model for the purposes of testing, or
 - (b) that is designed, and is to be constructed, by the owner or occupier of the premises on which it is to be installed, or
 - (c) that is designed, by a person other than the owner or occupier of the premises on which it is to be installed, specifically and uniquely for those premises.

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Subdivision 6 Approval required to operate system of sewage management

Note. This Regulation does not prescribe the matters that are to accompany an application for approval to operate a system of sewage management. Section 81 of the Act provides that an application for an approval under Part 1 of Chapter 7 of that Act (in which category such an application falls) must be accompanied by "such matters as may be prescribed by the regulations and such matters specified by the council as may be necessary to provide sufficient information to enable the council to determine the application".

42 Meaning of "operate a system of sewage management"

- (1) In this Subdivision, *operate a system of sewage management* means hold or process, or re-use or otherwise dispose of, sewage or by-products of sewage (whether or not the sewage is generated on the premises on which the system of sewage management is operated).
- (2) Without limiting subclause (1), *operate a system of sewage management* includes the following:
 - (a) use artificial wetlands, transpiration mounds, trenches, vegetation and the like in related effluent application areas,
 - (b) hold or process sewage that is to be subsequently discharged into a public sewer.
- (3) However, *operate a system of sewage management* does not include any of the following:
 - (a) any action relating to the discharge of sewage directly into a public sewer,
 - (b) any action relating to sewage or by-products of sewage after their discharge into a public sewer.

43 Matters to be taken into consideration in determining applications for approval to operate system of sewage management

In determining an application for approval to operate a system of sewage management, the council must consider any matter specified in guidelines or directions issued by the Director-General in relation to the environment and health protection matters referred to in clause 29 (2).

Subdivision 7 Operation of system of sewage management

44 Performance standards for operation of system of sewage management

- (1) A system of sewage management must be operated in a manner that achieves the following performance standards:
 - (a) the prevention of the spread of disease by micro-organisms,
 - (b) the prevention of the spread of foul odours,

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- (c) the prevention of contamination of water,
 - (d) the prevention of degradation of soil and vegetation,
 - (e) the discouragement of insects and vermin,
 - (f) ensuring that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,
 - (g) the minimisation of any adverse impacts on the amenity of the premises and surrounding lands,
 - (h) if appropriate, provision for the re-use of resources (including nutrients, organic matter and water).
- (2) Failure to comply with subclause (1) is not a breach of that performance standard if the failure was due to circumstances beyond the control of the person operating the system of sewage management (such as a fire, flood, storm, earthquake, explosion, accident, epidemic or warlike action).
- (3) A system of sewage management must be operated:
- (a) in accordance with the relevant operating specifications and procedures (if any) for the sewage management facilities used for the purpose, and
 - (b) so as to allow the removal of any treated sewage (and any by-product of any sewage) in a safe and sanitary manner.

45 Further condition of approval in relation to operation of system of sewage management

- (1) It is a condition of an approval to operate a system of sewage management that this clause is complied with.
- (2) The sewage management facilities used in the operation of the system must be maintained in a sanitary condition and must be operated in accordance with the relevant requirements of this Regulation.
- (3) A sewage management facility used in the operation of the system must not discharge into any watercourse or onto any land other than its related effluent application area.
- (4) The conditions (if any) of any certificate of accreditation issued by the Director-General of the Department of Health under this Subdivision in respect of the plans or designs for any components of the sewage management facilities must be complied with.

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- (5) The person operating the system of sewage management must provide details of the way in which it is operated, and evidence of compliance with the relevant requirements of this Regulation and of the conditions of the approval, whenever the council reasonably requires the person to do so.

46 Approval to operate system of sewage management extends to concurrent owners and occupiers

If an owner or occupier of land is the holder of an approval to operate a system of sewage management on the land (being an approval that is in force), any other owner or occupier of that land may operate the system of sewage management (without obtaining a further approval) in accordance with the conditions of the approval.

47 Temporary exemption for purchaser of land

- (1) Despite the other provisions of this Regulation, a person who purchases (or otherwise acquires) land on which any sewage management facilities are installed or constructed may operate a system of sewage management without the approval required under section 68 of the Act for the period of 3 months after the date on which the land is transferred or otherwise conveyed to the person (whether or not an approval is in force, as at that date, in relation to the operation of a system of sewage management on that land).
- (2) Further, if the person duly applies, within the period of 2 months after the date on which the land is transferred or otherwise conveyed to the person, for approval to operate the system of sewage management concerned, the person may continue to operate that system of sewage management without approval until the application is finally determined.

Subdivision 8 Exemptions

48 Activities for which approval is not required

The following activities may be carried out without the prior approval of the council subject to such conditions as are specified:

(a) **Transport waste**

The transporting of waste over or under a public place for fee or reward if:

- (i) the activity is licensed under the *Protection of the Environment Operations Act 1997*, or
- (ii) the activity is being carried out in the Sydney metropolitan area as defined in Part 3 (Interpretative provisions) of Schedule 1 to that Act, or

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- (iii) the waste is being transported through the area of the council and is not being collected or deposited in that area.

Note. A person who transports waste for fee or reward in circumstances that do not require a pollution control licence issued by the Environment Protection Authority must comply with the relevant requirements of the Regulations made under the *Protection of the Environment Operations Act 1997*.

(b) **Place waste in a public place**

The placing of waste in a public place, if it is done in accordance with arrangements instituted by the council.

(c) **Discharge of domestic sewage into sewer**

The discharge of sewage of a domestic nature into a sewer of the council, if it is done in accordance with arrangements instituted by the council.

(d) **Dispose of effluent into sewer**

The disposal of septic tank effluent into a sewer of the council, if the premises are within a Common Effluent Drainage District declared by the council.

(e) **Install, construct or alter a waste treatment device**

The installation, construction or alteration of a waste treatment device, if that installation, construction or alteration is done:

- (i) under the authority of a licence in force under the *Protection of the Environment Operations Act 1997*, or
- (ii) in a vessel used for navigation, or
- (iii) in a motor vehicle registered under the *Road Transport (Vehicle Registration) Act 1997* that is used primarily for road transport.

(f) **Operate a system of sewage management**

So much of the operation of a system of sewage management as is limited to an action carried out:

- (i) under the authority of a licence in force under the *Protection of the Environment Operations Act 1997*, or
- (ii) in a vessel used for navigation, or
- (iii) in a motor vehicle registered under the *Road Transport (Vehicle Registration) Act 1997* that is used primarily for road transport.

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Division 5 Approvals relating to activities on community land and public roads and other activities

Subdivision 1 Community land

49 Approval for the use of loudspeaker or amplifying device on community land not required in certain circumstances

A loudspeaker or sound amplifying device may be set up, operated or used on community land without the prior approval of the council if it is done in accordance with a notice erected on the land by the council or if it is done in the circumstances specified, in relation to the setting up, operation or use (as the case may be), in Part 1 of the local approvals policy applying to the land.

Subdivision 2 Public roads

50 Matters for consideration by council in determining whether to approve applications relating to public roads

In determining an application for an approval under Part E of the Table to section 68 of the Act the council must take into account:

- (a) the provisions of the *Roads Act 1993*, and
- (b) any relevant standards and policies of public authorities applying to the use of the road.

51 Compliance with standards—approvals relating to public roads

It is a condition of an approval referred to in Part E of the Table to section 68 of the Act that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by any regulation in force under the Act or the *Environmental Planning and Assessment Act 1979*.

Subdivision 3 Public car parks

52 Matters to accompany applications relating to the operation of a public car park

An application to operate a public car park must be accompanied by the following:

- (a) 3 copies of a plan that sufficiently identifies the land concerned and the streets to which the land has frontage and, if the car park comprises the whole or part of a building, describes the building, its location on the site and any other purpose for which it is to be used,

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- (b) details of the number of vehicles proposed to be accommodated in the car park and the manner in which this is to be done,
- (c) details of the means or proposed means of entry to or exit from the car park and as to the method of movement within the car park,
- (d) details of the off-street parking facilities available for the temporary accommodation of vehicles awaiting access to the car park,
- (e) details of ventilation to be provided if it is a building,
- (f) details of any petrol or oil or any motor service facilities to be provided in the car park,
- (g) details of the proposed hours of operation of the car park and as to the method or proposed method of receiving the fee or charge and the location or proposed location of any facility for receiving the fee or charge.

53 Matters to be taken into consideration by council in determining whether to approve the operation of a public car park

In determining an application for approval to operate a public car park the council is to take the following matters into consideration:

- (a) the Roads and Traffic Authority's views about the application,
- (b) the effect of the car park on the movement of vehicular traffic and pedestrian traffic,
- (c) whether the number of vehicles proposed to be accommodated is appropriate having regard to the size of the car park and the need to provide off-street parking facilities within the car park for the temporary accommodation of vehicles,
- (d) whether the means of ingress and egress and means of movement provided or to be provided within the car park are satisfactory,
- (e) whether there will be adequate provision for pedestrian safety and access for people with disabilities,
- (f) whether the internal design of parking facilities and system of traffic management are satisfactory,
- (g) whether, in the case of a car park that is a building, adequate ventilation is provided or to be provided,
- (h) the *Occupational Health and Safety Act 2000*, and the regulations made under that Act, as regards the safety of persons who will be employed at the proposed car park or of persons who will go there,
- (i) whether there will be adequate provision for the management of stormwater and the minimisation of stormwater pollution.

Local Government (General) Regulation 2005

Clause 54

Approvals

Part 2

54 Standards to be met for approval

The council must not grant an application for an approval to operate a public car park unless it is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

55 Compliance with standards

It is a condition of an approval to operate a public car park that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by any regulation in force under the Act or the *Environmental Planning and Assessment Act 1979*.

56 Number of vehicles

The council may, as a condition of an approval to operate a public car park, specify the maximum number of vehicles that may be parked at any one time.

57 Entries, exits and driveways

- (1) Vehicles must not enter and leave a public car park through the one driveway. Vehicles must not enter or leave a public car park except through the entrance or exit openings provided.
- (2) Entrances, exits and driveways are to be provided and arranged, maintained and operated so as to facilitate the orderly entrance and exit of vehicles.
- (3) Exits must not be blocked by gates and other obstacles while the car park is open to the public.

58 Surfaces

All traffic ramps, parking spaces, entrances, exits, driveways and holding areas are to be surfaced with material approved by the council.

59 Fencing

Land used as a public car park must be fenced to a height determined by the council and with materials approved by the council.

60 Lighting

A public car park is, while open to the public, to be lit to the satisfaction of the council.

Clause 61 Local Government (General) Regulation 2005

Part 2 Approvals

61 Vehicles

A vehicle is not to be permitted to park in a public car park unless any petrol tank on the vehicle is fitted with a turn cap or seal that is kept closed except when opened for the purpose of refuelling.

62 Fire extinguishers

A public car park must be provided with a sufficient number of fire extinguishers. The fire extinguishers must be emptied and recharged every 6 months.

63 Speed limit

Notices must be displayed in a public car park directing that vehicles are to be driven at a speed not greater than 8 kilometres per hour.

64 Obstruction of roads

A public road must not be used for the purpose of holding or marshalling vehicles in connection with a public car park.

65 Concurrence required for operation of public car park

The council must not grant an application for approval to operate a public car park except with the concurrence of the Roads and Traffic Authority, given having regard to its functions under the road transport legislation (within the meaning of the *Road Transport (General) Act 1999* or, after the repeal of that Act, the *Road Transport (General) Act 2005*) and the *Roads Act 1993*. The Authority may give concurrence subject to conditions.

66 Approval for operation of public car park not required in certain circumstances

- (1) A public car park may be operated without the prior approval of the council if approval for its erection or operation has already been given by the council in connection with another approval or development consent and the car park complies with any applicable conditions of that approval or development consent.
- (2) In this clause, *development consent* has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

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Clause 67

Approvals

Part 2

Subdivision 4 Domestic oil or solid fuel heating appliances

67 Standards to be met for approval

The council must not grant an application for an approval to install a domestic oil or solid fuel heating appliance (other than a portable appliance) unless it is satisfied that the activity as proposed to be carried out will comply with any applicable standards established by this Regulation or by or under the Act.

68 Compliance with standards

It is a condition of an approval to install a domestic oil or solid fuel heating appliance (other than a portable appliance) that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Act.

69 Adoption of Building Code of Australia

All matters relating to the installation of a domestic oil or solid fuel heating appliance (other than a portable appliance) are to be governed by the applicable provisions of the *Building Code of Australia*.

70 Approval for installation of domestic oil or solid fuel heating appliance not required in certain circumstances

A domestic oil or solid fuel heating appliance (other than a portable appliance) may be installed without the prior approval of the council if details of the appliance are included in plans and specifications for the relevant building approved under Part 4A of the *Environmental Planning and Assessment Act 1979*.

Subdivision 5 Amusement devices

71 Activities for which approval is not required

Amusement devices not required to be registered under the *Occupational Health and Safety Regulation 2001* may be installed or operated without the prior approval of the council.

Note. See the Table to clause 113 of the *Occupational Health and Safety Regulation 2001* for the items of plant that are required to be registered.

72 Standards to be met for approval

The council must not grant an application for an approval to install or operate an amusement device unless it is satisfied:

- (a) that the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it

Clause 73 Local Government (General) Regulation 2005

Part 2 Approvals

is in operation and is not dangerous because of its slope or irregularity or for any other reason, and

- (b) that the device is registered under the *Occupational Health and Safety Regulation 2001*, and
- (c) that the device is to be or has been erected in accordance with all conditions (if any) relating to its erection set out in the current certificate of registration issued for the device under that Regulation, and
- (d) that there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and
- (e) that there is in force a contract of insurance or indemnity for the device that complies with clause 74.

73 Compliance with standards

It is a condition of an approval to install or operate an amusement device, that the activity approved, and any building or work associated with or carried out in connection with the activity, complies with the following standards:

- (a) the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason,
- (b) the device is registered under the *Occupational Health and Safety Regulation 2001*,
- (c) all conditions (if any) subject to which the device is so registered and all relevant requirements of that Regulation are complied with,
- (d) the device is installed (including erected) and operated in a safe manner.

74 Insurance

It is a condition of an approval to install or operate an amusement device that there must be in force a contract of insurance or indemnity that indemnifies to an unlimited extent (or up to an amount of not less than \$10,000,000 in respect of each accident) each person who would be liable for damages for death or personal injury arising out of the operation or use of the device and any total or partial failure or collapse of the device against that liability.

Local Government (General) Regulation 2005

Clause 75

Approvals

Part 2

75 Approval for installation or operation of small amusement devices not required in certain circumstances

- (1) In this clause, *small amusement device* means an amusement device that is designed primarily for the use of children 12 years of age or under and includes such amusement devices as mini-Ferris wheels, battery operated cars and miniature railways but, in the case of rotating amusement devices, includes only those devices that have a maximum rotation of 14 revolutions per minute.
- (2) A small amusement device may be installed or operated without the prior approval of the council if:
- (a) the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason, and
 - (b) the device is registered under the *Occupational Health and Safety Regulation 2001*, and
 - (c) the device:
 - (i) is to be or has been erected, and
 - (ii) it to be or is being operated,
 in accordance with all conditions (if any) relating to its erection or operation set out in the current certificate of registration issued for the device under that Regulation, and
 - (d) there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and
 - (e) in the case of a device that is to be or is installed in a building, fire egress is not obstructed, and
 - (f) there is in force a contract of insurance or indemnity for the device that complies with clause 74.

Division 6 Miscellaneous

76 Form of application for accreditation of components, processes, designs or temporary structures

For the purposes of Division 5 of Part 1 of Chapter 7 of the Act, an application for the accreditation of a component, process, design or temporary structure must:

- (a) be in writing, and
- (b) include a description of the component, process, design or temporary structure to which it relates, and

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Part 2 Approvals

- (c) be accompanied by a copy of a certificate of accreditation issued by the Building Regulations Advisory Committee (within the meaning of the *Building Act 1993* of Victoria), if it is so accredited, or if it is not, documentary evidence of any test procedures, results, performances or appraisals relevant to the proposed accreditation that have been obtained from a recognised appraisal body.

77 Public notice of draft local approvals policies

The public notice required to be given by the council under section 160 (1) of the Act must:

- (a) be published in at least one local newspaper circulating at least once weekly in the area, and
- (b) be so published on at least 2 separate occasions, the first occasion being not more than 7 days before the commencement of the public exhibition of the draft local policy and the second occasion being at least 7 days but not more than 14 days before the conclusion of the period during which submissions may be made to the council in relation to the policy.

78 Public notice of approval

- (1) For the purposes of section 675 of the Act, the prescribed manner of giving public notice of the granting of an approval is to publish the notice in at least one local newspaper circulating at least once weekly in the area of the council.
- (2) For the purposes of section 675 of the Act, the prescribed form of public notice of the granting of an approval is a form that includes:
 - (a) a precise indication of the location of any place in relation to which the approval is granted (for example, the address of the place and any other description to help a reader identify the place) and a brief description of the subject-matter of the approval, and
 - (b) a statement to the effect that a record of the approval is available for inspection, without charge, at the office of the council during its ordinary office hours.

79 Matters to be submitted to council

If this Regulation requires evidence or a document to be submitted to council, any copy of the evidence or document is to be a complete and unabridged copy of the original.

Local Government (General) Regulation 2005

Clause 80

Approvals

Part 2

80 Application may be made for approval for exempted activity

A person may apply for approval under the Act for the carrying out of an activity, and the application may be determined, even though the person is exempted from the necessity to obtain approval by a local approvals policy.

81 Local approvals policies—standards

- (1) If a person is exempt (because of a local approvals policy) from the requirement to obtain approval for an activity, the exemption is subject to the condition that the activity comply with the standards referred to in clauses 8, 31, 44, 51, 55, 68 and 73.
- (2) However, the activity must so comply only to the extent that the provisions (and the standards to which they refer) would apply to the activity if the activity had not been the subject of an exemption under the local approvals policy.
- (3) However, if the local approvals policy specifies, as the circumstances (or as part of the circumstances) for the exemption, that the activity is carried out in such part of an area, or such an area, as is specified in the policy, subclauses (1) and (2) do not apply to the activity.
- (4) Subclause (3) does not prevent a local approvals policy from specifying compliance with one or more of the standards referred to in subclause (1) as part of the circumstances for an exemption under section 158 (3) of the Act.

Clause 82 Local Government (General) Regulation 2005

Part 3 Orders

Part 3 Orders

Note. In this Part, a reference to an Order of a particular number is a reference to the Order of that number set out in the Table to section 124 of the Act.

Division 1 Orders requiring or prohibiting the doing of things to or on premises

82 Relevant standards for camping grounds, caravan parks, manufactured home estates and moveable dwellings

For the purposes of:

(a) Order No 5 (a) in its operation as to camping grounds, caravan parks and manufactured home estates, and

(b) Order No 5 (b) in its operation as to moveable dwellings, any applicable standards referred to in the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* are relevant standards referred to in Columns 1 and 2 of the Table to section 124 of the Act.

Note. An Order can be made requiring compliance with these standards if they are not being complied with.

83 Relevant standards for places of shared accommodation

For the purposes of Order No 5 (d) in its operation as to places of shared accommodation that are class 3 buildings, the standards for places of shared accommodation set out in Part 1 of Schedule 2 are relevant standards referred to in Columns 1 and 2 of the Table to section 124 of the Act.

Note. An Order can be made requiring compliance with these standards if they are not being complied with.

84 Relevant standards for hairdressers shops

For the purposes of Order No 5 (e), the standards for hairdressers shops set out in Part 2 of Schedule 2 are relevant standards referred to in Columns 1 and 2 of the Table to section 124 of the Act.

Note. An Order can be made requiring compliance with these standards if they are not being complied with.

85 Relevant standards for beauty salons

For the purposes of Order No 5 (e), the standards for beauty salons set out in Part 3 of Schedule 2 are relevant standards referred to in Columns 1 and 2 of the Table to section 124 of the Act.

Note. An Order can be made requiring compliance with these standards if they are not being complied with.

Local Government (General) Regulation 2005

Clause 86

Orders

Part 3

86 Relevant standards for mortuaries

For the purposes of Order No 5 (f), the standards for mortuaries set out in Part 4 of Schedule 2 are relevant standards referred to in Columns 1 and 2 of the Table to section 124 of the Act.

Note. An Order can be made requiring compliance with these standards if they are not being complied with.

87 Water supply and sewerage system pipes, fittings and fixtures

Without limiting Order No 5 (h), and except in the case of a defect to which clause 88 applies, the following acts are taken to be included in Column 1 of the Table to section 124 of the Act as acts that may be required by that Order:

- (a) to remove, replace, alter, extend or repair a pipe, fitting or fixture located on premises connected to the council's water supply system or sewerage system,
- (b) to stop using such a pipe, fitting or fixture pending its removal, replacement, alteration, extension or repair.

88 Rectification of defective water supply or sewerage work

- (1) For the purposes of Order No 5 (h) (and without limiting that Order) in the case of an Order to a licensed contractor under Column 3 of the Table to section 124 of the Act in respect of a defect, the circumstances specified in Column 2 are taken to be included in that Column only where the council notifies the contractor of the defect after the date of issue by the contractor of a certificate to the effect that the work has been carried out as required by the Act and the *Environmental Planning and Assessment Act 1979*.
- (2) A licensed contractor so notified must bear the cost of rectifying the defect.
- (3) A circumstance in which the defective work is the subject of an order made by the Consumer, Trader and Tenancy Tribunal under the *Home Building Act 1989* constitutes a circumstance that is taken to be excluded from the circumstances specified in Column 2 of the Table to section 124 of the Act as circumstances in which Order No 5 (h) can be made.
- (4) An Order given by a council in respect of any such defective work ceases to have effect if an order referred to in subclause (3) is made in respect of the defective work.

Clause 89 Local Government (General) Regulation 2005

Part 3 Orders

89 Flow of surface water across land

- (1) Without limiting Order No 12, the repair of defective or insufficient roofing, guttering, downpiping or drainage is taken to be included in Column 1 of the Table to section 124 of the Act as an act that may be required by that Order.
- (2) Without limiting Order No 12, the circumstance in which the surface water is turbid or otherwise polluted and is flowing across the land boundary constitutes a circumstance that is taken to be included in the circumstances specified in Column 2 of the Table to section 124 of the Act as circumstances in which Order No 12 may be made.

Division 2 Orders requiring that premises be used or not used in specified ways

90 Septic tank or closet

Without limiting Order No 15, a circumstance in which a septic tank or a septic closet is being constructed, or used, on premises after the date specified (in Order No 24 served on the owner or occupier of the premises) as the date by which the premises were required to be connected with a sewerage system constitutes a circumstance that is taken to be included in the circumstances specified in Column 2 of the Table to section 124 of the Act as circumstances in which Order No 15 may be made.

91 Keeping of birds or animals

Without limiting Order No 18, failure to comply with relevant standards or requirements set or made by or under the Act constitutes a circumstance that is taken to be included in the circumstances specified in Column 2 of the Table to section 124 of the Act as circumstances in which Order No 18 may be made.

92 Relevant standards for keeping of birds or animals

For the purposes of Order No 18, the standards for the keeping of birds or animals set out in Part 5 of Schedule 2 are relevant standards referred to in Column 2 of the Table to section 124 of the Act.

Note. An Order can be made requiring compliance with these standards if they are not being complied with.

Local Government (General) Regulation 2005

Clause 93

Orders

Part 3

Division 3 Orders requiring the preservation of healthy conditions

93 Water carting vehicles

Without limiting Order No 20, the following circumstances are taken to be included in the circumstances specified in Column 2 of the Table to section 124 of the Act as circumstances in which that Order may be made:

- (a) a vessel used on a vehicle to cart water does not have an aperture that is large enough to enable easy inspection of the interior or thorough cleaning of the interior,
- (b) the cover of any such aperture is not of a kind that is able to be kept thoroughly clean.

94 Disposal of certain waste

For the purposes of Order No 22, and without limiting that Order, failure to comply with the standards for the disposal of certain waste set out in Part 6 of Schedule 2 is taken to be a circumstance in which waste is not being dealt with satisfactorily.

95 Connection of premises to council's water supply

Without limiting Order No 23 in the Table to section 124 of the Act, the following acts are taken to be included in Column 1 of that Table as acts that may be required by that Order:

- (a) the construction of all necessary pipes, and the installation of all necessary fixtures and fittings,
- (b) the construction or installation of a separate service pipe to the premises, or to each of the premises concerned.

96 Connection of premises to a sewerage system

(1) Without limiting Order No 24 in the Table to section 124 of the Act, the following acts are taken to be included in Column 1 of that Table as acts that may be required by that Order:

- (a) the construction of all necessary pipes, and the installation of all necessary fixtures and fittings,
- (b) the construction or installation of a separate service pipe to the premises, or to each of the premises concerned.

Clause 97 Local Government (General) Regulation 2005

Part 3 Orders

- (2) The circumstances specified in Column 2 of the Table to section 124 of the Act in relation to Order No 24 of the Table are taken to include the following:

The sewerage system of a public authority or a State owned corporation is available and the premises can be connected to the system by gravity, pumping or other means considered by the council to be suitable. This applies to all areas in which a public authority or a State owned corporation maintains a sewerage system.

Division 4 Miscellaneous

97 Copies of certain Orders to be provided to the EPA

- (1) If a council gives Order No 11, 12, 18, 21, 22 or 25 in respect of land or premises and the land or the land on which the premises are situated is the subject of a contaminated land action, the council must provide the EPA with a copy of the Order and of any modification or revocation of it.
- (2) Failure to provide the EPA with a copy does not invalidate an Order, modification or revocation.
- (3) In this clause:
- contaminated land action*** means a current action under the *Contaminated Land Management Act 1997* comprising:
- a declaration or order made under Part 3 of that Act in respect of which the EPA has notified the council under section 59 of that Act, or
 - a voluntary proposal in respect of which the EPA has notified the council under section 59 of that Act, but which has not yet been fully carried out, or
 - a notice to maintain remediation action issued by the EPA under section 28 of that Act, or
 - a covenant to maintain remediation imposed by the EPA under section 29 of that Act.

EPA means the Environment Protection Authority constituted by the *Protection of the Environment Administration Act 1991*.

Note. Section 7 (2) of the *Protection of the Environment Operations Act 1997* provides that that Act prevails over any other Act or statutory rule to the extent of any inconsistency and that a regulation under that Act prevails over any other statutory rule to the extent of any inconsistency.

Section 109 of the *Contaminated Land Management Act 1997* provides that the exercise of functions under other Acts must not be inconsistent with the functions of the EPA or another public authority under that Act.

Local Government (General) Regulation 2005

Clause 98

Orders

Part 3

98 Standards for water supply, sewerage or stormwater drainage work

An Order under section 124 of the Act requiring water supply, sewerage or stormwater drainage work to be carried out is not complied with unless the work is carried out in accordance with any applicable standards or requirements set out or referred to in Part 2 of this Regulation or the Order.

99 Information to be included in Orders

As well as the matters required by sections 136, 137 and 138 of the Act, the following information is to be included in an Order given by a council:

- (a) any relevant provision of the Act, local orders policy or regulations made under the Act that is not being or has not been complied with,
- (b) that it is an offence not to comply with an Order and the maximum penalty for the offence,
- (c) that, if the Order is not complied with, the council may give effect to the Order and recover the costs of doing so from the person concerned.

Note. Section 193 of the Act requires the council to give the owner or occupier of premises written notice before a person authorised to enter premises under Part 2 of Chapter 8 of the Act does so.

100 Public notice of local orders policy

The public notice required to be given by the council under section 160 (1) of the Act must:

- (a) be published in at least one local newspaper circulating at least once weekly in the area, and
- (b) be so published on at least 2 separate occasions, the first occasion being not more than 7 days before the commencement of the public exhibition of the draft local policy and the second occasion being at least 7 days but not more than 14 days before the conclusion of the period during which submissions may be made to the council in relation to the policy.

Clause 101 Local Government (General) Regulation 2005

Part 4 Community land

Part 4 Community land

Division 1 Guidelines for the categorisation of community land

101 Application of this Division

- (1) This Division sets out guidelines for the categorisation of community land.
- (2) A council that is preparing a draft plan of management under section 36 of the Act must have regard to the guidelines set out in this Division.

102 Guidelines for categorisation of land as a natural area

Land should be categorised as a natural area under section 36 (4) of the Act if the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature or attribute that would be sufficient to further categorise the land as bushland, wetland, escarpment, watercourse or foreshore under section 36 (5) of the Act.

Note. Section 36A of the Act provides that community land that has been declared a critical habitat under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994* must be categorised as a natural area.

Section 36B of the Act provides that community land all or part of which is directly affected by a recovery plan or threat abatement plan under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994* must be categorised as a natural area.

Section 36C of the Act provides that community land that is the site of a known natural, geological, geomorphological, scenic or other feature that is considered by the council to warrant protection or special management considerations, or that is the site of a wildlife corridor, must be categorised as a natural area.

103 Guidelines for categorisation of land as a sportsground

Land should be categorised as a sportsground under section 36 (4) of the Act if the land is used or proposed to be used primarily for active recreation involving organised sports or the playing of outdoor games.

104 Guidelines for categorisation of land as a park

Land should be categorised as a park under section 36 (4) of the Act if the land is, or is proposed to be, improved by landscaping, gardens or the provision of non-sporting equipment and facilities, for use mainly for passive or active recreational, social, educational and cultural pursuits that do not unduly intrude on the peaceful enjoyment of the land by others.

Local Government (General) Regulation 2005

Clause 105

Community land

Part 4

105 Guidelines for categorisation of land as an area of cultural significance

Land should be categorised as an area of cultural significance under section 36 (4) of the Act if the land is:

- (a) an area of Aboriginal significance, because the land:
 - (i) has been declared an Aboriginal place under section 84 of the *National Parks and Wildlife Act 1974*, or
 - (ii) whether or not in an undisturbed state, is significant to Aboriginal people in terms of their traditional or contemporary cultures, or
 - (iii) is of significance or interest because of Aboriginal associations, or
 - (iv) displays physical evidence of Aboriginal occupation (for example, items or artifacts such as stone tools, weapons, engraving sites, sacred trees, sharpening grooves or other deposits, and objects or materials that relate to the settlement of the land or place), or
 - (v) is associated with Aboriginal stories, or
 - (vi) contains heritage items dating after European settlement that help to explain the relationship between Aboriginal people and later settlers, or
- (b) an area of aesthetic significance, by virtue of:
 - (i) having strong visual or sensory appeal or cohesion, or
 - (ii) including a significant landmark, or
 - (iii) having creative or technical qualities, such as architectural excellence, or
- (c) an area of archaeological significance, because the area contains:
 - (i) evidence of past human activity (for example, below-ground features such as building foundations, occupation deposits, features or artifacts or above-ground features such as buildings, works, industrial structures, and relics, whether intact or ruined), or
 - (ii) any other deposit, object or material that relates to the settlement of the land, or
- (d) an area of historical significance, because of the importance of an association or position of the land in the evolving pattern of Australian cultural history, or
- (e) an area of technical or research significance, because of the area's contribution to an understanding of Australia's cultural history or environment, or

Clause 106 Local Government (General) Regulation 2005

Part 4 Community land

- (f) an area of social significance, because of the area's association with Aboriginal life after 1788 or the area's association with a contemporary community for social, spiritual or other reasons.

106 Guidelines for categorisation of land as general community use

Land should be categorised as general community use under section 36 (4) of the Act if the land:

- (a) may be made available for use for any purpose for which community land may be used, whether by the public at large or by specific sections of the public, and
- (b) is not required to be categorised as a natural area under section 36A, 36B or 36C of the Act and does not satisfy the guidelines under clauses 102–105 for categorisation as a natural area, a sportsground, a park or an area of cultural significance.

107 Guidelines for categorisation of land as bushland

- (1) Land that is categorised as a natural area should be further categorised as bushland under section 36 (5) of the Act if the land contains primarily native vegetation and that vegetation:
 - (a) is the natural vegetation or a remainder of the natural vegetation of the land, or
 - (b) although not the natural vegetation of the land, is still representative of the structure or floristics, or structure and floristics, of the natural vegetation in the locality.
- (2) Such land includes:
 - (a) bushland that is mostly undisturbed with a good mix of tree ages, and natural regeneration, where the understorey is comprised of native grasses and herbs or native shrubs, and that contains a range of habitats for native fauna (such as logs, shrubs, tree hollows and leaf litter), or
 - (b) moderately disturbed bushland with some regeneration of trees and shrubs, where there may be a regrowth area with trees of even age, where native shrubs and grasses are present in the understorey even though there may be some weed invasion, or
 - (c) highly disturbed bushland where the native understorey has been removed, where there may be significant weed invasion and where dead and dying trees are present, where there is no natural regeneration of trees or shrubs, but where the land is still capable of being rehabilitated.

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Clause 108

Community land

Part 4

108 Guidelines for categorisation of land as wetland

Land that is categorised as a natural area should be further categorised as wetland under section 36 (5) of the Act if the land includes marshes, mangroves, backwaters, billabongs, swamps, sedgeland, wet meadows or wet heathlands that form a waterbody that is inundated cyclically, intermittently or permanently with fresh, brackish or salt water, whether slow moving or stationary.

109 Guidelines for categorisation of land as an escarpment

Land that is categorised as a natural area should be further categorised as an escarpment under section 36 (5) of the Act if:

- (a) the land includes such features as a long cliff-like ridge or rock, and
- (b) the land includes significant or unusual geological, geomorphological or scenic qualities.

110 Guidelines for categorisation of land as a watercourse

Land that is categorised as a natural area should be further categorised as a watercourse under section 36 (5) of the Act if the land includes:

- (a) any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel that has been artificially improved, or in an artificial channel that has changed the course of the stream of water, and any other stream of water into or from which the stream of water flows, and
- (b) associated riparian land or vegetation, including land that is protected land for the purposes of the *Rivers and Foreshores Improvement Act 1948* or State protected land identified in an order under section 7 of the *Native Vegetation Conservation Act 1997*.

111 Guidelines for categorisation of land as foreshore

Land that is categorised as a natural area should be further categorised as foreshore under section 36 (5) of the Act if the land is situated on the water's edge and forms a transition zone between the aquatic and terrestrial environment.

Clause 112 Local Government (General) Regulation 2005

Part 4 Community land

Division 2 Preparation and adoption of draft plans of management for community land

112 Consultation concerning categorisation of land as an area of cultural significance

- (1) A council that is considering whether or not land is an area of Aboriginal significance (within the meaning of clause 105 (a)) must give notice of that consideration to Aboriginal people traditionally associated with the area in which the land is situated.
- (2) That notice must be given by:
 - (a) giving written notice to the following:
 - (i) the Local Aboriginal Land Council for the area concerned,
 - (ii) New South Wales Native Title Services Limited (ACN 098 971 209),
 - (iii) the Registrar appointed under the *Aboriginal Land Rights Act 1983*,
 - (iv) the Director-General of the Department of Aboriginal Affairs,
 - (v) the Director-General of the Department of Environment and Conservation, and
 - (b) placing an advertisement in a newspaper circulating across the State that is primarily concerned with issues of interest to Aboriginal people, and
 - (c) placing a written notice on the land in a position where the notice is visible to any person on adjacent public land.
- (3) The notice:
 - (a) must state that submissions may be made to the council, in relation to the council's consideration, by any Aboriginal person traditionally associated with the area in which the community land is situated, and
 - (b) must specify a period of not less than 28 days after the date on which the notice is given during which submissions may be made to the council.
- (4) A council that is considering whether or not land is an area of Aboriginal significance (within the meaning of clause 105 (a)) must not make a final determination on that matter unless the council has considered any submissions made under this clause by Aboriginal people traditionally associated with the area in which the community land is situated.

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- (5) A council must not prepare a draft plan of management that categorises community land as an area of cultural significance on the ground that the land is an area of Aboriginal significance (within the meaning of clause 105 (a)) unless the council has called for and considered any submissions made under this clause by Aboriginal people traditionally associated with the area in which the community land is situated.

113 Preparation of draft plan of management where land is categorised in more than one category

A draft plan of management that categorises an area of community land, or parts of an area of community land, in more than one category must clearly identify the land or parts of the land and the separate categories (by a map or otherwise).

114 Adoption of draft plan of management in relation to which certain submissions have been made

- (1) This clause applies if:
- (a) a council prepares a draft plan of management, and
 - (b) the council receives any submission, made in accordance with the Act, concerning that draft plan that makes any objection to a categorisation of land under the draft plan, and
 - (c) the council adopts the plan of management without amending the categorisation that gave rise to the objection.
- (2) If this clause applies, the resolution by which the council adopts the plan of management must state the council's reasons for categorising the relevant land in the manner that gave rise to the objection.

115 Application of amendments made by Local Government Amendment Act 2000 to draft plans of management

The amendments made to sections 40 and 40A of the Act by Schedule 3 [4]–[6] to the *Local Government Amendment Act 2000* do not apply to proposed plans of management amended or adopted after the commencement of those amendments that had been placed on exhibition before the commencement of the amendments.

Division 3 Other matters

116 Leases, licences and other estates in respect of community land

- (1) For the purposes of section 46 (1) (b) (iii) of the Act, the use or occupation of community land for the following events is prescribed as a purpose in respect of which a council may grant a licence in respect of community land on a short-term, casual basis:
- (a) the playing of a musical instrument, or singing, for fee or reward,

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Part 4 Community land

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- (b) engaging in a trade or business,
 - (c) the playing of a lawful game or sport,
 - (d) the delivery of a public address,
 - (e) commercial photographic sessions,
 - (f) picnics and private celebrations such as weddings and family gatherings,
 - (g) filming sessions,
 - (h) the agistment of stock.
- (2) However, the use or occupation of community land for events listed in subclause (1) is prescribed only if the use or occupation does not involve the erection of any building or structure of a permanent nature.
- (3) For the purposes of section 46 (1) (b) (iii) of the Act, the use of any existing road or fire trail on community land:
- (a) to transport building materials and equipment required in relation to building work that is to be, or is being, carried out on land adjoining the community land, or
 - (b) to remove waste that is consequential on such work, is prescribed as a short-term, casual purpose.
- (4) For the purposes of section 46 (1) (b) (iii) of the Act, the use of any community land that does not have an existing road or fire trail:
- (a) to transport building materials and equipment required in relation to building work that is to be, or is being, carried out on land adjoining the community land, or
 - (b) to remove waste that is consequential on such work, is prescribed as a short-term, casual purpose if such work is for a purpose referred to in section 46 (4) (a) (ii) of the Act.
- (5) In this clause, ***existing road or fire trail*** means a road or a fire trail that was in existence on 1 January 2001 (the date on which the *Local Government (General) Amendment (Community Land) Regulation 2000* commenced).

117 Exemptions from section 47A of the Act (Leases, licences and other estates in respect of community land—terms of 5 years or less)

- (1) Leases, licenses and other estates granted for the following purposes are exempt from the provisions of section 47A of the Act:
- (a) residential purposes, where the relevant community land has been developed for the purposes of housing owned by the council,

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- (b) the provision of pipes, conduits or other connections under the surface of the ground for the connection of premises adjoining the community land to a facility of the council or other public utility provider that is situated on the community land,
 - (c) use and occupation of the community land for events such as:
 - (i) a public performance (that is, a theatrical, musical or other entertainment for the amusement of the public),
 - (ii) the playing of a musical instrument, or singing, for fee or reward,
 - (iii) engaging in a trade or business,
 - (iv) playing of any lawful game or sport,
 - (v) delivering a public address,
 - (vi) conducting a commercial photographic session,
 - (vii) picnics and private celebrations such as weddings and family gatherings,
 - (viii) filming,
 - (d) a purpose referred to in clause 116 (3) or (4).
- (2) However, the use or occupation of community land for events listed in subclause (1) (c) is exempt only if:
- (a) the use or occupation does not involve the erection of any building or structure of a permanent nature, and
 - (b) in the case of any use or occupation that occurs only once, it does not continue for more than 3 consecutive days, and
 - (c) in the case of any use or occupation that occurs more than once, each occurrence is for no more than 3 consecutive days, not including Saturday and Sunday, and the period from the first occurrence until the last occurrence is not more than 12 months.

118 Additional notifications in relation to certain filming projects

- (1) This clause prescribes, for the purposes of section 47AA of the Act, the additional manner of notification or advertisement of a council's proposal under section 47A of the Act to grant a lease, licence or other estate in respect of community land in order to allow a filming project to be carried out on that community land.
- (2) If the community land is:
 - (a) critical habitat (as defined in section 36A (1) of the Act), or

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- (b) directly affected by a recovery plan or threat abatement plan (as referred to in section 36B (2) of the Act),
written notice is to be given to the Director-General of the Department of Environment and Conservation.
- (3) If the community land is declared to be an area of cultural significance under section 36D (1) of the Act because of the presence on the land of any item that the council considers to be of Aboriginal significance:
- (a) written notice is to be given to the Local Aboriginal Land Council for the area in which the land is situated, and
- (b) an advertisement is to be placed in a newspaper circulating across the State that is primarily concerned with issues of interest to Aboriginal people.
- (4) A notice and an advertisement required by this clause must include the matter specified in section 47 (2) of the Act (subject to section 47AA (2) of the Act).

119 Sublease of community land

For the purposes of section 47C (1) (b) of the Act:

- (a) refreshment kiosks, dances and private parties are prescribed as purposes for which community land that is leased for a surf life-saving club or a sporting club may be sublet, and
- (b) a croquet club is prescribed as a purpose for which community land that is used as a bowling club may be sublet.

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Clause 120

Rates and charges

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Part 5 Rates and charges

Division 1 Preliminary

120 Application of Part

The provisions of this Part that relate to the making and levying of ordinary rates do not apply to county councils.

Division 2 Levying of rates and charges

121 Land used for caravan park or manufactured home not to be categorised as residential (section 516 (2))

If the dominant use of land is for a caravan park or a manufactured home estate, the land is not to be categorised as residential for rating purposes.

122 Land used for retirement village, serviced apartments or time-shares to be categorised as residential (section 516 (2))

If the dominant use of land is for a retirement village, serviced apartments or a time-share scheme, the land is to be categorised as residential for rating purposes.

123 Homebush Bay area exempt from rates (section 556)

All land leased by the Royal Agricultural Society in the Homebush Bay area (as defined in the *Olympic Co-ordination Authority Act 1995* before the repeal of that Act) is exempt from all rates, except water supply special rates and sewerage special rates.

124 Museum of Contemporary Art exempt from rates (section 556)

All land occupied by the Museum of Contemporary Art Limited is exempt from all rates, except water supply special rates and sewerage special rates.

125 Services for which an annual charge may be imposed (section 501)

- (1) Emergency services provided or proposed to be provided within the area of the Blue Mountains City Council are prescribed for the purposes of section 501 of the Act.
- (2) In this clause, *emergency services* includes (without limitation) bushfire and other fire services, civil emergency services, and management services associated with emergency services.

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Part 5 Rates and charges

126 Minimum amounts of rates

For the purposes of section 548 (3) (a) of the Act, the amount prescribed is \$366.

127 Rates and charges notices

A rates and charges notice must contain the following information:

- (a) the land to which it relates,
- (b) the land value of the land to which it relates and the base date of the general valuation from which the land value is derived,
- (c) particulars of each rate or charge levied on the land by the notice,
- (d) if the rate consists of a base amount to which an ad valorem amount is added, particulars of the base amount,
- (e) the date the notice is taken to have effect,
- (f) particulars of any outstanding arrears of rates and charges levied on the land and of any interest payable on those amounts,
- (g) the total amount due and the dates for payment of the rates or charges concerned,
- (h) the amounts payable for, and the due dates for payment of, instalments of rates or charges,
- (i) particulars of any waiver of an amount of special rate in consideration of payment of a lump sum,
- (j) a statement that concessions are available to eligible pensioners for any quarter in which they are eligible pensioners,
- (k) particulars of any concession extended in respect of payment of the rates,
- (l) particulars of any discount for prompt payment in full of a rate or charge,
- (m) particulars of any postponement of rates or postponed rates,
- (n) particulars of any option to pay a lump sum towards the capital cost of any works, services or facilities instead of a special rate in the notice,
- (o) a statement that if payment is not made on or before the due date or dates interest accrues on the overdue amount,
- (p) a statement as to how to make inquiries about the notice,
- (q) the text, or a summary, of the following provisions of the Act (if applicable):
 - (i) section 524 (Notice of change of category),
 - (ii) section 525 (Application for change of category),

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- (iii) section 526 (Appeal against declaration of category),
 - (iv) section 555 (What land is exempt from all rates?),
 - (v) section 556 (What land is exempt from all rates, other than water supply special rates and sewerage special rates?),
 - (vi) section 557 (What land is exempt from water supply special rates and sewerage special rates?),
 - (vii) section 562 (Payment of rates and annual charges),
 - (viii) section 563 (Discount for prompt payment in full),
 - (ix) section 564 (Agreement as to periodical payment of rates and charges),
 - (x) section 566 (Accrual of interest on overdue rates and charges),
 - (xi) section 567 (Writing off of accrued interest),
 - (xii) section 574 (Appeal on question of whether land is rateable or subject to a charge).

128 Information relating to rates and charges

A council must, if required to do so by the Minister or the Director-General, furnish information to the Minister or the Director-General, in the form required, relating to rates and charges levied by the council.

Division 3 Payment of rates and charges**129 Request for transfer of land in payment of rates, charges or accrued interest**

A request to the council for the acceptance of a transfer of land under section 570 of the Act in payment of rates, charges or accrued interest must be in writing, be signed by each owner or person having an interest in the land concerned and contain the following information:

- (a) title particulars and the rate assessment number of the land,
- (b) particulars of any mortgage, charge, lien or other encumbrance affecting the land.

130 Additional circumstances in which rates or charges may be written off (section 607)

The council may write off rates and charges and interest accrued on unpaid rates and charges if an amount of an increase to a rate is subsequently reduced as a consequence of clause 84 of Schedule 8 to the Act.

Note. Clause 84 of Schedule 8 is concerned with ordinary rates levied for the year commencing 1 July 2005 and each of the subsequent four years. It

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Part 5 Rates and charges

provides that, in general, the amount that may be levied as an ordinary rate for any parcel of land in the category "farmland" (or any sub-category of that category) must not be more than 20% above the amount levied as an ordinary rate for that parcel for the previous year.

131 Procedures for writing off rates and charges

- (1) The council must, from time to time, by resolution, fix the amount of rates and charges above which any individual rate or charge may be written off only by resolution of the council.
- (2) An amount of rates or charges of or below that amount can be written off either by resolution of the council or by order in writing of the council's general manager. In the absence of a resolution under subclause (1), rates and charges can be written off only by resolution of the council.
- (3) A resolution or order writing off an amount of rates or charges must:
 - (a) specify the name of the person whose debt is being written off, and
 - (b) identify the account concerned, and
 - (c) specify the amount written off,or must refer to a record kept by the council in which those particulars are recorded.
- (4) An amount of rates or charges can be written off under this clause only:
 - (a) if there is an error in the assessment, or
 - (b) if the amount is not lawfully recoverable, or
 - (c) as a result of a decision of a court, or
 - (d) if the council or the general manager believes on reasonable grounds that an attempt to recover the amount would not be cost effective.
- (5) The fact that an amount of rates or charges is written off under this clause does not prevent the council concerned from taking legal proceedings to recover the amount.
- (6) The general manager must advise the council of rates and charges written off by written order of the general manager.

132 Details of written off rates and charges to be included in annual report

The council's annual report must include the amount of rates and charges written off during the year.

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133 Sale of land to recover overdue rates or charges

An advertisement under section 715 (1) of the Act notifying a proposed sale of land for unpaid rates or charges is to contain the following information:

- (a) that the council proposes to sell the land for unpaid rates or charges at public auction,
- (b) the name of the auctioneer and the proposed place, date and time of the auction,
- (c) the persons known to the council to have an interest in the land,
- (d) the amount of rates and charges unpaid for more than 5 years from the date on which they became payable and the amount of any interest accrued,
- (e) the amount of any other rates and charges payable and unpaid and the amount of any interest accrued,
- (f) the total amount due,
- (g) that, if all rates and charges payable (including overdue rates and charges) are not paid to the council or an arrangement satisfactory to the council is not entered into by the rateable person before the time fixed for the sale, the council will proceed with the sale.

Division 4 Pensioners**134 Eligible pensioners for the purposes of determining pensioner concessions—prescribed classes**

For the purposes of paragraph (a) of the definition of *eligible pensioner* in the Dictionary to the Act, the following classes of persons are prescribed:

- (a) persons who receive a pension, benefit or allowance under Chapter 2 of the *Social Security Act 1991* of the Commonwealth, or a service pension under Part III of the *Veterans' Entitlements Act 1986* of the Commonwealth, and who are entitled to a pensioner concession card issued by or on behalf of the Commonwealth Government,
- (b) persons who receive a pension from the Commonwealth Department of Veterans' Affairs as:
 - (i) the widow or widower of a member of the Australian Defence or Peacekeeping Forces, or
 - (ii) the unmarried mother of a deceased unmarried member of either of those Forces, or

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- (iii) the widowed mother of a deceased unmarried member of either of those Forces,
and do not have income and assets that would prevent them from being granted a pensioner concession card (assuming they were eligible for such a card),
- (c) persons who receive a general rate of pension adjusted for extreme disablement under section 22 (4) of the *Veterans' Entitlements Act 1986* of the Commonwealth, or a special rate of pension under section 24 of that Act.

135 Application for eligible pensioners concession

An application under Division 1 of Part 8 of Chapter 15 of the Act is to be made in the form approved by the Director-General.

136 Abandonment of pensioners rates and charges—prescribed persons

For the purposes of section 582 of the Act, any person who receives a pension, benefit or allowance under Chapter 2 of the *Social Security Act 1991* of the Commonwealth and is the holder of a pensioner concession card issued by or on behalf of the Commonwealth Government is a prescribed person.

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Clause 137

Water services

Part 6

Part 6 Water services

Division 1 General provisions

137 Water supply may be restricted if there is a shortage of supply

- (1) A council that considers the available stored water in a water supply system supplying its area, or the available capacity of supply from that system, to be insufficient to allow the unrestricted consumption of water for purposes other than domestic purposes may, by notice published in accordance with this clause, restrict:
 - (a) the purposes for which the water can be used, or
 - (b) the times when the water can be used, or
 - (c) the methods by which the water can be used, or
 - (d) the quantities of the water that can be used.
- (2) The council may, by notice published in accordance with this clause, place the same sort of restrictions as are referred to in subclause (1) on the use of water from such a water supply system for any purposes (including domestic purposes):
 - (a) if there is a drought, or
 - (b) if the available stored water, or the available capacity of supply, is so limited as to make extraordinary measures necessary in the general interest of water consumers.
- (3) Restrictions under this clause can be imposed in respect of all of the council area supplied by the water supply system, but can apply to a part of that area if and only if:
 - (a) the shortage of water or shortage in capacity of supply is limited to that part, or
 - (b) the council orders the supply to be restricted to different parts of the area in rotation.
- (4) Restrictions under this clause can be imposed only by a notice of the council published in a newspaper circulating within the council's area.
- (5) All agreements made by the council relating to the supply of water are subject to this clause.
- (6) This clause does not authorise the council to make orders restricting persons' rights under the *Water Act 1912* or the *Water Management Act 2000*.

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Part 6 Water services

138 Works for which approval is required under section 60 of the Act

- (1) The Minister for Utilities may give a council an approval for the purposes of section 60 of the Act if and only if:
 - (a) the council has made an application in writing for consent that is accompanied by the relevant documents, and
 - (b) either the council has complied with any requirement of that Minister to supply further information with respect to the application or that Minister has waived any such requirement, and
 - (c) that Minister is satisfied that the council is competent to exercise the powers that it would not be able to exercise without that approval, and
 - (d) all inspections of the work and the site of the work that that Minister has directed to be carried out for the purpose of enabling the application to be considered have been carried out.
- (2) The relevant documents are:
 - (a) the plans and specifications of, and documents and data in the possession of the council that are relevant to, the exercise of power in respect of which the approval is sought, and
 - (b) any documents containing details sufficient to satisfy the Minister for Utilities of the matters referred to in subclause (1) (b)–(d).
- (3) If the Minister for Utilities has, for the purposes of section 60 of the Act, approved the exercise by the council of its powers with respect to a work, that Minister may, by notice in writing to the council, revoke that approval if the council has failed:
 - (a) to comply with any requirements that that Minister has made with respect to the provision of additional plans, specifications, documents or information with respect to the exercise of those powers, or
 - (b) to comply with any directions that that Minister has given with respect to the work, or
 - (c) to accept any supervision of the exercise of those powers that that Minister has required.

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Clause 139

Water services

Part 6

139 Erection of notices to indicate catchment districts

The council may, on land in a catchment district, erect such notices as it considers necessary for indicating the boundaries of the district and directing attention to any prohibitions or restrictions applicable to the district.

Note. Section 640 of the Act provides that contravention of a prohibition or restriction in such a notice is an offence.

140 Flood retarding basins

A work that is, or will when completed be, a prescribed dam for the purposes of the *Dams Safety Act 1978* is prescribed as a flood retarding basin for the purposes of section 60 (d) of the Act.

Division 2 Functions of councils

141 Works constructed to serve 2 or more council areas

- (1) If water supply works have been constructed to serve the areas of 2 or more councils, the council that has control of the works is required to supply water to each of the other councils concerned, either at the boundary of its area or at some other convenient point that may be mutually agreed with those other councils.
- (2) If sewerage works have been constructed to serve the areas of 2 or more councils, the council controlling the sewer mains through which sewage has to flow must allow that flow.
- (3) If stormwater drainage works have been constructed to serve the areas of 2 or more councils, a council controlling a component of the stormwater drainage system must facilitate the proper functioning of the system.
- (4) If the capital cost of the water supply, sewerage or stormwater drainage works has not been notified as a joint debt, the council that has control of the works may make a charge for:
 - (a) the supply of water from the water supply works, or
 - (b) allowing the flow of sewage through the sewerage works and for pumping and treating the sewage, or
 - (c) managing the flow of stormwater through the stormwater drainage works.
- (5) Such a charge is to be:
 - (a) of such amount as may be agreed with each of the other councils concerned, or
 - (b) if there is no agreement, of such amount as the Minister may from time to time determine and notify to all of the councils concerned.

Clause 142 Local Government (General) Regulation 2005

Part 6 Water services

142 Fire hydrants

- (1) The council:
- (a) must install hydrants in its water mains at such convenient distances, and at such places, as may be necessary for the ready supply of water to extinguish fires, and
 - (b) must maintain the hydrants in effective working order.

This subclause does not apply to a water main that is less than 100 millimetres in diameter or if the water supply system is not sufficient for the operation of fire hydrants (in such circumstances the council may provide other means for the ready supply of water to extinguish fires).

- (2) The council may, at the request and expense of the owner or occupier of a building, install a hydrant (to be used only for extinguishing fires) in or in the vicinity of the building. If such a hydrant is installed, the council must ensure that it is maintained in effective working order.
- (3) A council may remove a hydrant from any of its water mains if satisfied on reasonable grounds that the hydrant is no longer needed.
- (4) The council must at all times keep charged with water all its pipes to which hydrants are connected unless prevented from doing so:
- (a) by drought or other unavoidable cause or accident, or
 - (b) while necessary repairs to the pipe or hydrant are being carried out.
- (5) Persons authorised to do so by the council may take water without charge for the purpose of extinguishing fires.

143 Inspection of pipes and drains and measurement of water and sewage

- (1) The council may, at any reasonable time:
- (a) inspect any service pipe connected to a water main, and
 - (b) inspect any drain connected to a sewer main, and
 - (c) install meters or other devices for measuring the quantity of water supplied to, or the quantity of sewage discharged from, premises, and
 - (d) measure the quantity of water supplied to, or the quantity of sewage discharged from, premises.
- (2) The occupier of the relevant premises must provide to the council such information as it requires to enable it to estimate the quantity of water actually supplied to, or the quantity of sewage actually discharged from, the premises.

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Clause 144

Water services

Part 6

144 Cutting off or restricting water supply

- (1) The council may cut off or restrict the supply of water to premises:
- (a) if any water meter used to measure that supply is out of repair or, in the opinion of the council, incorrectly registers the supply of water, or
 - (b) if any rates or charges in respect of the water supplied to the premises are unpaid, or
 - (c) if, in the opinion of the council, that action is necessary because of unusual drought or other unavoidable cause or any accident, or
 - (d) if the owner or occupier or person requiring a supply of water fails to comply with a lawful order or requirement of the council as to installing water meters or instruments for measuring the quantity of water supplied, or
 - (e) if the owner or occupier or person requiring a supply of water fails to comply with a lawful order or requirement of the council to repair or alter water connections, pipes, fittings or fixtures connected to the council's water supply system, or
 - (f) if the occupier of the premises contravenes a provision of Division 3 of this Part or fails to comply with any council order or public notice requiring consumers of water to economise its use in time of drought or scarcity of supply, or
 - (g) if the owner or occupier of the premises fails to comply with a requirement of a council order to remove, replace, alter, extend, repair or stop using a water pipe, fitting or fixture.
- (2) The cutting off of the supply of water under this clause for non-payment of rates or charges does not affect the liability of the rateable person to pay those rates or charges.
- (3) If the council cuts off the supply of water to premises because:
- (a) there is no water meter installed on the premises, or
 - (b) the water meter on the premises registers incorrectly, or
 - (c) water rates or charges for the premises are unpaid,
- the council may refuse to supply water to those premises until a water meter is installed on the premises, the water meter registers correctly or the water rates or charges are paid (as the case may require).

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Part 6 Water services

145 New sewer or stormwater drain to be constructed if it is less costly than a connection to an existing sewer or stormwater drain

- (1) A council that believes that it would cost more to provide for the flow of existing sewers or stormwater drains on 2 or more separate premises to empty into an existing sewer or stormwater drain than it would to provide for the flow to empty into a new sewer or stormwater drain may construct a new sewer or stormwater drain for that purpose.
- (2) A council, on constructing such a new sewer or stormwater drain, may, by order served on the owners or occupiers of the premises concerned, order those owners or occupiers to cause the sewers or stormwater drains on each of those premises to empty into the new sewer or stormwater drain.
- (3) The council:
 - (a) must apportion fairly the expenses of the construction of the new sewer or stormwater drain among the owners or occupiers of each of the premises affected, and
 - (b) require those owners or occupiers to pay the apportioned expenses to the council.

146 Connections to council's sewerage system

- (1) If premises are liable to a special sewerage rate, the council may, at the request of the person liable to pay rates in respect of the premises:
 - (a) carry out such works as may be necessary to provide for the drainage of sewage from the premises, and
 - (b) provide such connections as may be necessary to enable fixtures installed on the premises to discharge their contents into the council's sewerage system.
- (2) The council may, in respect of work done or any materials provided under subclause (1), impose on the person a charge sufficient to meet the cost of the work or materials.
- (3) Such a charge:
 - (a) must cover the cost of doing the work or providing the materials, together with interest on that cost at a rate not exceeding that fixed in respect of overdue rates, and
 - (b) may be recovered by equated instalments of principal and interest during such period as the council determines.
- (4) Any such charge may be recovered as a rate and is to be a charge on the premises in respect of which it is imposed as if it were a rate.

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- (5) The council is not responsible for the repair, maintenance or renewal of any work done or materials provided under this clause on or in respect of the premises concerned, except as regards defective work or materials.
 - (6) Any work so done or materials so provided belongs to the owner of those premises.

147 Water not to be supplied through water supply work until inspected and certified

The council must not supply water through a water supply work connected to the council's water supply system until the work has been inspected and certified:

- (a) by the council or a suitably qualified person determined by the council, or
- (b) if the water supply work is of a type for which the approval of the Minister for Utilities is required under section 60 of the Act—in accordance with paragraph (a) or, if that Minister has specifically authorised inspection and certification by another suitably qualified person, by that person,

as having been constructed in accordance with all applicable standards or requirements set out or referred to in the Act and this Regulation.

148 Council to prepare map of water supply, sewerage and stormwater drainage works

- (1) The council:
 - (a) must, before or within a reasonable time after water supply, sewerage or stormwater drainage works have been constructed, prepare a map of the works and the surrounding land that is liable to be rated or become subject to an annual charge for services in relation to the works, and
 - (b) must from time to time, as the works are extended, amend the map so that it shows the extended works and the land.
- (2) The council must ensure that every such map also shows:
 - (a) the levels of the works at the road frontages of the land, and
 - (b) so far as is reasonably practicable, the distances from the works of the nearest boundaries of that land and the location of buildings on that land, and
 - (c) any information relating to the works that might reasonably be expected to affect construction work that might be carried out on the land.

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- (3) The owner or occupier of land affected by such a map, or any other person who has the written permission of such an owner, is entitled to inspect the map during the council's office hours.

149 Plans of connections to sewerage or stormwater drainage systems

If the owner or occupier of premises has been ordered by the council to connect the premises to the council's sewerage system or stormwater drainage system, the council must give that owner or occupier a plan showing the location of the connection.

150 Inspection of drainage diagrams

An owner or occupier of land affected by the installation of drains in accordance with an approval referred to in item 4 or 5 of Part B of the Table to section 68 of the Act (or any other person with the written permission of such an owner) is entitled to inspect, during the council's office hours, any diagrams of those drains provided to the council as a condition of the approval.

Division 3 General requirements relating to water supply, sewerage and stormwater drainage

151 Water supply, sewerage and stormwater drainage work to comply with applicable standards and requirements

Water supply work, sewerage work and stormwater drainage work must comply with any applicable standards or requirements set out or referred to in the Act or this Regulation.

152 Premises to be connected to water supply by an independent house service pipe

- (1) The owner of premises must, unless the council authorises otherwise, ensure that the premises are not connected to a property service pipe linked to the council's water supply system except by an independent house service pipe.
- (2) The owner of premises connected to the council's water supply by an independent house service pipe must ensure that the pipe has a stop-valve within the premises that is not more than 450 millimetres from the road alignment or at some other place within the premises approved by the council.
- (3) If several premises are supplied with water by a single house service pipe, the council may require, as a condition of the supply, that a separate house service pipe be laid to each of the premises.

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- (4) If the council authorises the connection of 2 or more premises by means of a single house service pipe, the owner of each of the premises must (unless all the premises are occupied by a single household or firm as a residence or place of business) ensure that there is installed on each of those premises:
- (a) a separate stop-valve that complies with subclause (2), and
 - (b) a separate water meter to measure the water supply to those premises.
- (5) The owner of a group of contiguous premises may request the council to lay a large property service pipe or water sub-main to supply 2 or more of the premises in the group.

153 Laying of house service pipes

- (1) A person must not lay a house service pipe that is to be connected to the council's water supply system otherwise than in accordance with the Plumbing and Drainage Code of Practice.
- (2) However, a person does not contravene subclause (1) only by laying a house service pipe at a depth less than that required by the Plumbing and Drainage Code of Practice if the council has, in writing, authorised the person to do so.

154 Privately owned water meters to be of a size and class approved by the council

- (1) Before a water meter (other than a water meter hired from or provided by the council) is installed on premises connected or to be connected to the council's water supply system, the owner of the premises concerned must submit the meter to the council for testing and stamping.
- (2) If it is proposed to move such a water meter to a new position and more than 2 years has elapsed since the meter was last tested and stamped by the council, the owner of the premises concerned must resubmit it for further testing and stamping before moving it to the new position.
- (3) The council is not required to test and stamp a water meter submitted or resubmitted under this clause unless the fee fixed by the council is paid.

155 Security of water meters

- (1) The owner of premises on which there is located a water meter connected to the council's water supply system must, if required by the council to do so, protect the meter by enclosing it in a box constructed of metal, wood or other strong durable material and fitted with a lock and key approved by the council.

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- (2) The owner of such premises must, if the council so requires, deposit with the council the key to the water meter or, if it is enclosed in a meter-box, the key to the box immediately after the meter or box is installed.

156 Water meter not to be used to measure the water supplied to more than one premises except in certain cases

- (1) The owner of premises on which a water meter is installed must ensure that the meter is not used to measure the quantity of water supplied by the council to other premises.
- (2) Subclause (1) does not apply:
- (a) if the premises and the other premises are occupied by a single household or firm as a residence or place of business, or
 - (b) if the council authorises the meter to measure the water supplied to the premises and the other premises.
- (3) In those circumstances:
- (a) the council must credit the relevant water account with the amount of any water rate or charge paid in respect of all the premises, and
 - (b) the owner of the premises on which the water meter is installed must ensure that:
 - (i) the meter is directly connected to the water main by a single property service pipe, and
 - (ii) the water for each of the premises passes through and is measured by the meter.
- (4) However, if there are special circumstances requiring the laying of 2 or more service pipes, the owner of the premises must ensure that each service pipe is connected to a water meter.
- (5) In that case, the council must credit the water account of each meter with the amount of any water rate or charge paid in respect of the premises supplied through the relevant service pipe.

157 Hire of meters

- (1) A person who wishes to hire a water meter from the council must execute an agreement prepared for that purpose.
- (2) The agreement must contain the conditions on which the meter is to be hired.

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158 Testing of meters

- (1) At the request of an owner or occupier of premises and on the payment of a fee fixed by the council, the council must arrange for a water meter installed on the premises to be examined and tested.
- (2) The council may, on its own initiative, arrange for such a water meter to be examined and tested.
- (3) If, as a result of such an examination and test, a water meter is found not to correctly measure the quantity of water passing through it, the council may charge for the supply of water:
 - (a) on the basis of a daily consumption equal to the average daily consumption during the corresponding meter reading period of the previous year, or
 - (b) on such other basis as the council and the consumer may agree.
- (4) Testing carried out at the request of a person who is the owner or occupier of premises is to be at the expense of the person, unless the meter is one hired from or provided by the council and the testing indicates that the meter is defective, in which case the testing is to be at the expense of the council.
- (5) A water meter that registers less than 3 per cent more or less than the correct quantity is taken to correctly measure the water passing through it.
- (6) If a water meter provided by the council is found to be defective, the council must replace it with one that is not defective.
- (7) If a privately owned meter is found to be defective, the council may require the owner to rectify the meter or, if the defect cannot be rectified, replace the meter with one that is not defective. An owner who is required to rectify or replace a meter must comply with the requirement.
- (8) The rectification or replacement is to be at the expense of the owner.
- (9) When a privately owned water meter is being rectified or is awaiting replacement, the supply of water to the owner of the meter:
 - (a) is to be regulated by special contract made between the owner and the council, and
 - (b) is to be restricted to use for domestic purposes.

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159 Prevention of waste and misuse of water

The owner, occupier or manager of premises to which water is supplied by the council must:

- (a) prevent waste of water by taking prompt action to repair leaking taps, pipes or fittings located on the premises, and
- (b) take any other action that is reasonable to prevent waste and misuse of water.

160 Misuse of water

An occupier of premises supplied with water from the council's water supply system must not:

- (a) take any of the water away from the premises, or
- (b) allow any other person to take any of the water away from the premises, or
- (c) use water contrary to a council notice restricting the use of water, other than in accordance with arrangements instituted by the council.

161 Particular provisions for unmetered premises

- (1) In this clause, *unmetered premises* means premises to which the council supplies water other than through a water meter.
- (2) An occupier of unmetered premises supplied with water from the council's water supply system must not use the water for purposes other than domestic purposes unless the water is supplied under a special contract or the permission of the council has been obtained.
- (3) For the purposes of subclause (2), the use of water for domestic purposes does not include the use of water for any of the following:
 - (a) buildings used for housing animals or birds (not being buildings also used for human habitation),
 - (b) a manufacturing purpose,
 - (c) the irrigation or sprinkling of crops, gardens or lawns,
 - (d) the production of power for fountains,
 - (e) ornamental purposes.
- (4) A person must not install or allow to remain installed within unmetered premises a tap or device to which a hose can be attached, unless:
 - (a) the water supplied by the council is supplied under a contract allowing the use of the tap or device, and
 - (b) any special fee for the tap or device fixed by the council has been paid.

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- (5) A person must not, on unmetered premises to which water is supplied by the council for domestic purposes, use a hose for the purpose of watering a garden or laying dust (or any similar purpose) with the water supplied, unless:
- (a) the activity is specifically authorised by an arrangement entered into with the council, and
 - (b) any fee required by the arrangement has been paid.

162 Joint sewerage services prohibited

- (1) The owner of premises connected to the council's sewerage system must ensure:
- (a) that any house drain on the premises is kept separate from that of all other premises, and
 - (b) that the only fittings and fixtures permitted to discharge into the house drain are those located on the premises.
- (2) The owner of premises on which a house drain is or is to be connected to the council's sewerage system must ensure that the drain is laid within the boundary of the premises until it:
- (a) reaches that system or the boundary nearest to that system, or
 - (b) emerges into a public place.

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Part 7 Tendering

Part 7 Tendering

Division 1 Preliminary

163 Application of Part

- (1) This Part applies to all contracts for which a council is required by section 55 of the Act to invite tenders.
Note. This Part does not apply to other kinds of contracts. However, a council may apply provisions of this Part (with any necessary alterations) to other kinds of contracts if it wishes to do so.
- (2) For the purposes of the final bullet point paragraph of section 55 (3) of the Act, section 55 does not apply to a contract involving an estimated expenditure or receipt of an amount of less than \$150,000.

164 Definitions

In this Part:

appropriate person, in relation to a tender submitted to a council, means a person designated by the general manager to receive or deal with tenders submitted to the council and, if a person is not designated, means the general manager.

electronic means includes electronic communication within the meaning of the *Electronic Transactions Act 2000*.

formal tender document means a standard form document issued by a council for completion by tenderers in connection with the submission of tenders to the council.

goods includes materials.

instalment contract means a contract requiring the payment of instalments by or to a council over a period of 2 or more years.

public authority includes a council.

relevant newspapers, in relation to a council, means:

- (a) a Sydney metropolitan daily newspaper, and
- (b) either or both of the following:
 - (i) a newspaper circulating in the council's area,
 - (ii) a newspaper circulating in the district where potential tenderers are likely to be carrying on business or to be residing.

tender means a tender submitted or proposed to be submitted to a council in accordance with this Part.

Note. Part 2 of the *Electronic Transactions Act 2000* facilitates the use of electronic communication as a means of effecting certain transactions, such as contracts.

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Clause 165

Tendering

Part 7

165 Requirements for contracts to which this Part applies

- (1) A council may enter into a contract to which this Part applies only in accordance with the provisions of this Part.
- (2) A contract to which this Part applies, and any variation or discharge of the contract, must be in writing and must be executed by or on behalf of the council.

Division 2 Prerequisites for tendering

166 Council to decide whether tenders are to be by open tendering or selective tendering

Whenever a council is required by section 55 of the Act to invite tenders before entering into a contract, the council must decide which of the following tendering methods is to be used:

- (a) the open tendering method by which tenders for the proposed contract are invited by public advertisement,
- (b) the selective tendering method by which invitations to tender for a particular proposed contract are made following a public advertisement asking for expressions of interest,
- (c) the selective tendering method by which recognised contractors selected from a list prepared or adopted by the council are invited to tender for proposed contracts of a particular kind.

167 Open tendering

- (1) A council that decides to use the open tendering method for a proposed contract must publish an advertisement in the relevant newspapers inviting tenders for the proposed contract.
- (2) The advertisement must:
 - (a) express the purpose of the proposed contract, and
 - (b) give details of where and when tender documents relating to the proposed contract can be obtained and the purchase price of those documents, and
 - (c) specify the name of a person to whom requests for information concerning the proposed contract may be addressed and how the person can be contacted, and
 - (d) invite any person willing to fulfil the requirements of the proposed contract to submit a tender to the council by the deadline specified in the advertisement.

The deadline must be a specified time on a date that is at least 21 days after the date of publication or first publication of the advertisement.

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- (3) The tender documents relating to the proposed contract must comply with clause 170.

168 Selective tendering method by which invitations to tender for proposed contract are made following public advertisement asking for expressions of interest

- (1) A council that decides to use the selective tendering method referred to in clause 166 (b) for allocating a particular proposed contract must publish in the relevant newspapers an advertisement inviting applications from persons interested in tendering for the proposed contract.
- (2) Every such advertisement must include:
- (a) a brief description of the work, goods, facilities, services or property concerned, and
 - (b) the name of a person to whom requests for information concerning the proposed contract may be addressed and how the person can be contacted, and
 - (c) the deadline for submitting applications.

The deadline must be a specified time on a date that is at least 21 days after the date of publication or first publication of the advertisement.

- (3) A council must consider all applications made in response to such an advertisement and, in so doing, must take into account:
- (a) the experience of the applicants in fulfilling the requirements of similar contracts, and
 - (b) the capacity of the applicants to fulfil the requirements of the proposed contract.
- (4) After considering the applications, the council may either:
- (a) send invitations in writing to all applicants, or such of them as the council thinks will be able to fulfil the requirements of the proposed contract, to tender for the proposed contract, or
 - (b) decline to invite tenders from any of the applicants.
- (5) In inviting tenders from applicants, the council must:
- (a) invite them to submit tenders to the council by the deadline specified in the invitations, and
 - (b) give details of where and when tender documents relating to the proposed contract can be obtained and the purchase price of those documents.

The deadline must be a specified time on a date that is at least 21 days after the date of the invitation.

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Clause 169

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- (6) The tender documents relating to the proposed contract must comply with clause 170.

169 Selective tendering method by which recognised contractors listed by council are invited to tender for particular kinds of proposed contracts

- (1) A council that decides to use the selective tendering method referred to in clause 166 (c) for the allocation of proposed contracts of a specified kind must publish in the relevant newspapers an advertisement inviting applications from persons interested in tendering for proposed contracts of that kind so that the council may prepare a list of suitable tenderers.
- (2) Every such advertisement must include:
- (a) a brief description of the kind of work, goods, facilities, services or property concerned, and
 - (b) the name of a person to whom requests for information concerning the proposed contracts may be addressed and how the person can be contacted, and
 - (c) the deadline for submitting applications.
- (3) A council must consider all applications made in response to such an advertisement and, in so doing, take into account the experience of the applicants in fulfilling the requirements of, and their capacity to undertake, similar contracts.
- (4) After considering an application under this clause, the council may either:
- (a) list the applicant as a recognised contractor for some or all of the kinds of work, goods, facilities, services or property specified in the application, or
 - (b) reject the application in whole or part.
- (5) In seeking tenders for a particular proposed contract, a council may invite some or all of the recognised contractors listed by it under this clause to tender for that contract and may do so on the basis of:
- (a) their capacity to fulfil the requirements of that contract, and
 - (b) the number of occasions on which each contractor has previously been invited to tender for similar proposed contracts.
- (6) In inviting tenders for a proposed contract from recognised contractors listed by the council under this clause, the council must:
- (a) invite them to submit tenders to the council by the deadline specified in the invitations, and

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- (b) give details of where and when tender documents relating to the proposed contract can be obtained and the purchase price of those documents.

The deadline must be a specified time on a date that is at least 21 days after the date of the invitation.

- (7) The tender documents relating to the proposed contract must comply with clause 170.
- (8) As an alternative to listing persons as recognised contractors in accordance with subclauses (1)–(4), a council may adopt a list of contractors prepared by another public authority, but only if the list was prepared by the authority following the publication of an advertisement similar to that provided for under subclause (1).
- (9) If a council adopts such a list, the persons whose names appear on the list are taken to be recognised contractors for the kinds of work, goods, facilities, services or property specified in the list.
- (10) A person who is a contractor recognised by a council ceases to be so recognised if the person informs the council in writing that the person no longer wishes to be listed as a recognised contractor for the purposes of this clause.
- (11) Nothing in this clause requires a council to take the action referred to in subclause (1) on each occasion that it decides to invite tenders under this clause.

170 Tender documents

- (1) The tender documents relating to a proposed contract must:
- (a) give details of the work to be carried out, the goods or facilities to be provided, the services to be performed or the property to be disposed of and, if the proposed contract is an instalment contract:
- (i) give details of the instalments to be paid by or to the council, and
 - (ii) specify the period over which the instalments are to be paid, and
 - (iii) specify the intervals between payment of the instalments, and
- (b) specify the criteria on which the assessment of tenders will be based, and
- (c) specify the name of a person to whom requests for information concerning the proposed contract may be addressed and how the person can be contacted, and

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- (d) indicate whether formal tender documents must be submitted in relation to the tender and, if so, how they may be obtained.
 - (2) If a council amends tender documents after they have been issued to persons, it must take all reasonably practicable steps to inform those persons of the amendments.

171 Shortened tender period

- (1) A council that believes there are exceptional circumstances rendering inappropriate a deadline that would, but for this clause, be required to be specified in an advertisement under clause 167, 168 or 169 or an invitation under clause 168 (4) or 169 (6) may decide on an earlier deadline. However, the earlier deadline must be a specified time on a date that is at least 7 days after:
 - (a) the date of the publication or first publication of the advertisement, or
 - (b) the date of the invitation.
- (2) A council must keep a record of:
 - (a) the circumstances requiring an earlier deadline to be specified in such an advertisement or invitation, and
 - (b) the name of the staff member who made the decision to change the deadline (if not made by the council).

172 Extended tender period

- (1) If, having specified or included a deadline in an advertisement under clause 167, 168 or 169 or an invitation under clause 168 (4) or 169 (6), a council becomes aware of circumstances that show that the deadline may not allow enough time for meaningful tenders or applications to be submitted, it may extend the deadline by specifying a later deadline.
- (2) If, at the time of extending the deadline, the council has issued invitations to persons under clause 168 (4) or 169 (6) or has issued tender documents to persons, it must take all reasonably practicable steps to inform those persons of the later deadline.
- (3) A council must keep a record of:
 - (a) the circumstances requiring a later deadline to be specified in an advertisement or invitation, and
 - (b) the name of the staff member who made the decision to change the deadline (if not made by the council).

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Division 3 Submission and opening of tenders

173 Submission of tenders

- (1) A tender must be submitted in writing, by facsimile transmission or (subject to subclause (2)) by electronic means.
- (2) A tender may not be submitted by electronic means:
 - (a) if guidelines are in force under section 23A of the Act with respect to the transmission of tenders by electronic means—unless its submission by electronic means is authorised by, and effected in accordance with, those guidelines, and
 - (b) in any other case—unless its submission by electronic means is effected by a secure mechanism (such as an encryption-based technology) that ensures that it cannot subsequently be altered.
- (3) Unless sent by facsimile transmission or electronic means, a tender must be sent or delivered in a sealed envelope.
- (4) If a tender is sent by facsimile transmission or electronic means (other than the means referred to in subclause (2) (b)), it must be printed out on receipt, and an appropriate person must place the tender in a sealed envelope immediately after it is printed out.

174 Custody of tenders after receipt

- (1) A council must:
 - (a) provide a secure tender box, and
 - (b) ensure that:
 - (i) all tenders (except the tenders received by electronic means that have not been printed out, but including those received by facsimile transmission) submitted to it for a proposed contract are kept in the tender box, and
 - (ii) the tender box, when containing tenders, is kept in a safe and secure place,
until the envelopes containing the tenders are opened in accordance with clause 175.
- (2) A council must ensure that, whenever the council's office is open for business, its tender box is kept in a place that allows tenderers who wish to do so to deposit their tenders personally.

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- (3) Tenders received by electronic means as referred to in clause 173 (2) (b) must be stored on an information system (within the meaning of the *Electronic Transactions Act 2000*) in such a manner (whether by means of password protection or otherwise) that they are accessible only to an appropriate person.

175 Opening of tenders

- (1) At the time specified for the close of tenders, the appropriate person must open the tenders in the presence of:
- (a) at least 2 persons designated by the general manager for the purpose, and
 - (b) such tenderers and members of the public as wish to attend the opening.
- (2) A member of the public who attends the opening of tenders for a proposed contract is entitled, on request, to be informed as to whether the council has received a particular tender and the number of tenders received.
- (3) As soon as practicable after the tenders for a proposed contract have been opened, the appropriate person:
- (a) must record the names of the tenderers and the amounts that appear to have been tendered for the contract, and
 - (b) must prepare a tender list specifying the names of the tenderers in alphabetical order.
- (4) Immediately after preparing a tender list, the appropriate person must display the list in a place where it can be readily seen by members of the public. That person may add to the list such information as he or she considers appropriate.

176 Tenders may be varied in certain circumstances

- (1) At any time before a council accepts any of the tenders that it has received for a proposed contract, a person who has submitted a tender may, subject to subclause (2), vary the tender:
- (a) by providing the council with further information by way of explanation or clarification, or
 - (b) by correcting a mistake or anomaly.
- (2) Such a variation may be made either:
- (a) at the request of the council, or

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- (b) with the consent of the council at the request of the tenderer, but only if, in the circumstances, it appears to the council reasonable to allow the tenderer to provide the information or correct the mistake or anomaly.
- (3) If a tender is varied in accordance with this clause, the council must provide all other tenderers whose tenders have the same or similar characteristics as that tender with the opportunity of varying their tenders in a similar way.
- (4) A council must not consider a variation of a tender made under this clause if the variation would substantially alter the original tender.
- (5) A council must keep a record of:
 - (a) the circumstances requiring the variation of a tender, and
 - (b) the name of the staff member handling the matter.

Division 4 Determination of successful tenderer

177 Consideration of tenders

- (1) As soon as practicable after the tenders for a proposed contract have been opened, the council must assess the tenders.
- (2) A council must not consider a tender that is not submitted to the council by the deadline for the closing of tenders. This subclause is subject to subclauses (4) and (5).
- (3) A council must consider a tender transmitted to it by facsimile machine or electronic means, but only if:
 - (a) in the case of transmission by electronic means, that means of transmission was specified in the relevant tender documents, and
 - (b) the transmission was received before the deadline for the closing of tenders, and
 - (c) the tender is complete.
- (4) However, if a council has specified in the relevant tender documents issued by the council that a tender will not be considered unless formal tender documents are submitted to the council, then (despite subclause (3)), the council is not obliged to consider a tender transmitted to it in accordance with that subclause (being a tender that does not include formal tender documents) unless:
 - (a) the tenderer is able to satisfy the council that formal tender documents and all other requisite essential information were posted or lodged at a Post Office or other recognised delivery agency before the deadline for the closing of tenders, and

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- (b) the council actually receives those documents within such period as it decides to be reasonable in the circumstances.
- (5) A council must also consider a tender received within such period after the deadline for the closing of tenders as it decides to be reasonable in the circumstances if the tenderer satisfies the council that the tender documents and all other requisite essential information were posted or lodged at a Post Office or other recognised delivery agency in sufficient time to enable the documents to have been received by the council in the ordinary course of business before that deadline.

178 Acceptance of tenders

- (1) After considering the tenders submitted for a proposed contract, the council must either:
- (a) accept the tender that, having regard to all the circumstances, appears to it to be the most advantageous, or
 - (b) decline to accept any of the tenders.
- (2) A council must ensure that every contract it enters into as a result of a tender accepted by the council is with the successful tenderer and in accordance with the tender (modified by any variation under clause 176). However, if the successful tender was made by the council (as provided for in section 55 (2A) of the Act), the council is not required to enter into any contract in order to carry out the requirements of the proposed contract.
- (3) A council that decides not to accept any of the tenders for a proposed contract or receives no tenders for the proposed contract must, by resolution, do one of the following:
- (a) postpone or cancel the proposal for the contract,
 - (b) invite, in accordance with clause 167, 168 or 169, fresh tenders based on the same or different details,
 - (c) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,
 - (d) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,
 - (e) enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter of the tender,
 - (f) carry out the requirements of the proposed contract itself.

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- (4) If a council resolves to enter into negotiations as referred to in subclause (3) (e), the resolution must state the following:
- (a) the council's reasons for declining to invite fresh tenders or applications as referred to in subclause (3) (b)–(d),
 - (b) the council's reasons for determining to enter into negotiations with the person or persons referred to in subclause (3) (e).

179 Notification of acceptance of successful tender

As soon as practicable after entering into a contract in accordance with clause 178 or deciding not to accept any of the tenders for a proposed contract, a council must:

- (a) send to all tenderers whose tenders were not accepted notices to the effect that their tenders were unsuccessful or, as the case may be, that none of the tenders for the proposed contract was accepted, and
- (b) display in a conspicuous place that is accessible to members of the public a notice specifying the name of the tenderer whose tender was accepted and the amount of the successful tender or, if none of the tenders was accepted, a notice to that effect.

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Clause 180

Honesty and disclosure of interests

Part 8

Part 8 Honesty and disclosure of interests

Division 1 Preliminary

180 Definitions

In this Part and Schedule 3:

address means:

- (a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- (b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- (c) in relation to any real property, the postal address of the property or particulars of title of the property.

disposition of property means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- (a) the allotment of shares in a company,
- (b) the creation of a trust in respect of property,
- (c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property,
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property,
- (e) the exercise by a person of a general power of appointment over property in favour of another person,
- (f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

gift means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

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interest means:

- (a) in relation to property—an estate, interest, right or power, at law or in equity, in or over the property, or
- (b) in relation to a corporation—a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

listed company means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

occupation includes trade, profession and vocation.

professional or business association means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

property includes money.

travel includes accommodation incidental to a journey.

181 Return dates and periods

- (1) A reference in this Part or in Schedule 3 to the return date for a return made by a person under section 449 (1) of the Act is a reference to the date on which the person became the holder of a position required to make such a return.
- (2) A reference in this Part or in Schedule 3 to the return period for a return by a person under section 449 (3) of the Act in a particular year is a reference to:
 - (a) if the last return made by the person was a return under section 449 (1) of the Act, the period commencing on the first day after the return date and ending on 30 June in that particular year, or
 - (b) if the last return made by a person was a return under section 449 (3) of the Act, the period commencing on the expiration of the period to which that return relates and ending on 30 June in that particular year.

182 Matters relating to the interests that must be included in returns

(1) **Interests etc outside New South Wales**

A reference in this Part or in Schedule 3 to a disclosure concerning a corporation or other thing includes a reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.

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(2) **References to interests in real property**

A reference in this Part or in Schedule 3 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.

(3) **Gifts, loans etc from related corporations**

For the purposes of this Part and Schedule 3, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

Division 2 Pecuniary interests to be disclosed in returns

183 Real property

- (1) A person making a return under section 449 (1) of the Act must disclose:
 - (a) the address of each parcel of real property in which he or she had an interest on the return date, and
 - (b) the nature of the interest.
- (2) A person making a return under section 449 (3) of the Act must disclose:
 - (a) the address of each parcel of real property in which he or she had an interest at any time since the last return under Part 2 of Chapter 14 of the Act was made, and
 - (b) the nature of the interest.
- (3) An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
 - (a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
 - (b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to his or her duties as the holder of a position required to make a return.
- (4) In this clause, *interest* includes an option to purchase.

184 Gifts

- (1) A person making a return under section 449 (3) of the Act must disclose:
 - (a) a description of each gift received since the last return under Part 2 of Chapter 14 of the Act was made, and

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- (b) the name and address of the donor of each of the gifts.
- (2) A gift need not be included in a return if:
 - (a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
 - (b) it was a political contribution disclosed, or required to be disclosed, under Part 6 of the *Election Funding Act 1981*, or
 - (c) the donor was a relative of the donee.
- (3) For the purposes of this clause, the amount of a gift other than money is an amount equal to the value of the property given.

185 Contributions to travel

- (1) A person making a return under section 449 (3) of the Act must disclose:
 - (a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person since the last return under Part 2 of Chapter 14 was made, and
 - (b) the dates on which the travel was undertaken, and
 - (c) the names of the States and Territories, and of the overseas countries, in which the travel was undertaken.
- (2) A financial or other contribution to any travel need not be disclosed under this clause if it:
 - (a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
 - (b) was made by a relative of the traveller, or
 - (c) was made in the ordinary course of an occupation of the traveller that is not related to his or her functions as the holder of a position requiring the making of a return, or
 - (d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12 month period or less, or
 - (e) was a political contribution disclosed, or required to be disclosed, under Part 6 of the *Election Funding Act 1981*, or
 - (f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales or to enable the traveller to represent the party within Australia.

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- (3) For the purposes of this clause, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

186 Interests and positions in corporations

- (1) A person making a return must disclose:
- (a) the name and address of each corporation in which he or she had an interest or held a position (whether remunerated or not) on the return date (in the case of a return under section 449 (1) of the Act) or at any time since the last return under Part 2 of Chapter 14 of the Act was made (in the case of a return under section 449 (3) of the Act), and
 - (b) the nature of the interest, or the position held, in each of the corporations, and
 - (c) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
- (2) An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- (a) formed for the purpose of providing recreation or amusement or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
 - (b) required to apply its profits or other income in promoting its objects, and
 - (c) prohibited from paying any dividend to its members.
- (3) An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.

187 Positions in trade unions and professional or business associations

A person making a return must disclose:

- (a) the name of each trade union, and of each professional or business association, in which he or she held any position (whether remunerated or not) on the return date (in the case of a return under section 449 (1) of the Act) or at any time since the last return under Part 2 of Chapter 14 was made (in the case of a return under section 449 (3) of the Act), and
- (b) a description of the position held in each of the unions and associations.

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188 Dispositions of real property

- (1) A person making a return under section 449 (3) of the Act must disclose particulars of each disposition of real property by the person, at any time since the last return under Part 2 of Chapter 14 of the Act was made, under which he or she wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
- (2) A person making a return under section 449 (3) of the Act must disclose particulars of each disposition of real property to another person, since the last return under Part 2 of Chapter 14 of the Act was made, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.

189 Sources of income

- (1) A person making a return must disclose:
 - (a) in the case of a return under section 449 (1) of the Act—each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
 - (b) in the case of a return under section 449 (3) of the Act—each source of income received by the person since the last return under Part 2 of Chapter 14 of the Act was made.
- (2) A reference in subclause (1) to each source of income received, or reasonably expected to be received, by a person is a reference to:
 - (a) in relation to income from an occupation of the person:
 - (i) a description of the occupation, and
 - (ii) if the person is employed or the holder of an office, the name and address of his or her employer or a description of the office, and
 - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
 - (b) in relation to income from a trust, the name and address of the settlor and the trustee, or
 - (c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
- (3) The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.

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190 Debts

- (1) A person making a return must disclose the name and address of each person to whom the person was liable to pay any debt:
 - (a) in the case of a return under section 449 (1) of the Act—on the return date, or
 - (b) in the case of a return under section 449 (3) of the Act—at any time since the last return under Part 2 of Chapter 14 of the Act was made.
- (2) A liability to pay a debt must be disclosed by a person in a return whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time since the last return under Part 2 of Chapter 14 of the Act was made, as the case may be.
- (3) A liability to pay a debt need not be disclosed by a person in a return if:
 - (a) the amount to be paid did not exceed \$500 on the return date or at any time since the last return under Part 2 of Chapter 14 of the Act was made, as the case may be, unless:
 - (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date or at any time since the last return was made, as the case may be, and
 - (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
 - (b) the person was liable to pay the debt to a relative, or
 - (c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money and the loan was made in the ordinary course of business of the lender, or
 - (d) in the case of a debt arising from the supply of goods or services:
 - (i) the goods or services were supplied in the period of 12 months immediately preceding the return date or were supplied since the last return under Part 2 of Chapter 14 of the Act was made, as the case may be, or
 - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to his or her duties as the holder of a position required to make a return.

191 Discretionary disclosures

A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Part.

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Division 3 Form of return

192 Form of return

For the purposes of section 449 of the Act, the form set out in Schedule 3 is prescribed.

Division 4 Conduct generally

193 Code of conduct

For the purposes of section 440 (Codes of conduct) of the Act, the Code called *The Model Code of Conduct for Local Councils in NSW* published by the Department in December 2004 is prescribed as the model code of conduct.

194 Acts of disorder

For the purposes of Chapter 14 (Honesty and disclosure of interests) of, and Schedule 6A (Code of conduct) to, the Act, the acts of disorder specified in clause 256 (1) are prescribed as acts of disorder.

Division 5 Appeals against suspension

195 Making of appeal

An appeal under section 440M of the Act is to be made:

- (a) in accordance with any relevant procedures set out in the *Pecuniary Interest and Disciplinary Tribunal Procedure Manual* published by the Pecuniary Interest and Disciplinary Tribunal, as in force from time to time, or
- (b) if there are no such relevant procedures (or no such manual)—by giving written notice of the appeal to that Tribunal.

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Division 1 Preliminary

196 Definitions

In this Part:

accounting records of a council means the records that section 412 of the Act requires the council to keep, and includes any cash receipt record, assets register, contracts register, stores register or ledger, debtors' ledger and creditors' ledger.

Code means the *Local Government Code of Accounting Practice and Financial Reporting* published by the Department, as in force from time to time.

Departmental representative means a person authorised under section 430 of the Act.

estimate includes any sub-estimate that an estimate is required to contain.

Manual means the *Local Government Asset Accounting Manual* published by the Department, as in force from time to time.

quarter means the period of 3 months ending on 30 September, 31 December, 31 March or 30 June.

records includes books, registers, deeds and documents, and any other sources of information compiled, recorded or stored in written form or on microfilm, or by electronic process, or in any other manner or by any other means.

responsible accounting officer of a council means:

- (a) a member of the staff of the council designated by the general manager, or
- (b) if no such member has been designated, the general manager.

Division 2 Draft management plans

197 Guidelines

In preparing a draft management plan required under Part 2 of Chapter 13 of the Act, a council must have regard to any relevant guidelines or directions issued to the council by the Director-General.

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Part 9 Management and accountability

198 Additional matters to be included in draft management plans

- (1) For the purposes of the fifth dot point of section 403 (1) of the Act, any proposed council activity relating to the management of any of the following is prescribed:
 - (a) stormwater,
 - (b) coasts and estuaries,
 - (c) sewage,
 - (d) waste.
- (2) A draft management plan must contain the following particulars in relation to such of the proposed activities referred to in subclause (1) as are relevant to the council's area:
 - (a) particulars of the relevant characteristics of the area, catchment or region in which the proposed activity is to be conducted, with special reference to:
 - (i) any commercial pressures, and
 - (ii) any problems or issues identified in relation to the proposed activity in the council's state of the environment reports,
 - (b) particulars of the council's evaluation of possible methods of dealing with those pressures, problems and issues,
 - (c) particulars of the council's membership (or proposed membership) of any bodies relating to the proposed activity, including particulars of any significant variation in the way the activity is proposed to be carried out from any recommendation of such a body (together with the reasons for the variation),
 - (d) particulars of any action to be taken jointly with other councils or bodies, including particulars of any significant variation in the way the activity is proposed to be carried out from any recommendation of such a council or body (together with the reasons for the variation),
 - (e) particulars of any significant variation in the council's plan from any guidelines or directions issued by the Director-General (together with the reasons for the variation).

199 Draft management plan—activities relating to ecologically sustainable development

- (1) When preparing the part of its draft management plan dealing with environmental protection activities, a council must do the following:
 - (a) it must apply the principles of ecologically sustainable development,

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- (b) it must consider its most recent comprehensive state of the environment report,

Note. Under clause 226, a comprehensive state of the environment report is taken to include any subsequent supplementary state of the environment reports relating to the same area.

- (c) it must consult the community (including environmental groups),
 (d) it must involve the community (including environmental groups) in the development of environmental management strategies.

- (2) In this clause, *environmental protection activities* means the principal activities that the council proposes to conduct in order to properly manage, develop, protect, restore, enhance and conserve the environment in a manner that is consistent with and promotes the principles of ecologically sustainable development (as referred to in section 403 (2) of the Act).

**200 Additional matters to be included in draft management plans—
 implementation of access and equity activities**

- (1) For the purposes of the fifth dot point in section 403 (1) of the Act, any proposed council activity relating to access and equity activities to meet the needs of residents in the council's area is prescribed as a matter with respect to which a draft management plan must contain a statement.
- (2) The statement in a draft management plan of a council relating to any proposed activity referred to in subclause (1) must contain particulars (in the form required by the Department) of the access and equity activities it proposes to undertake during the period covered by the draft management plan (including access and equity initiatives prioritised in the council's community or social plan prepared in accordance with guidelines issued from time to time by the Department for the period to which the draft management plan relates).

Division 3 Management plans and budgeting by councils

201 Requirements as to estimates of income and expenditure

The council's detailed estimate of its income and expenditure required by section 404 (1) of the Act to be included in its draft management plan for a year must be prepared in accordance with the Code.

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202 Responsible accounting officer to maintain system for budgetary control

The responsible accounting officer of a council must:

- (a) establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored each month and to be compared with the estimate of the council's income and expenditure, and
- (b) if any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.

203 Budget review statements and revision of estimates

- (1) Not later than 2 months after the end of each quarter, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.
- (2) A budget review statement must include or be accompanied by:
 - (a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and
 - (b) if that position is unsatisfactory, recommendations for remedial action.
- (3) A budget review statement must also include any information required by the Code to be included in such a statement.

Division 4 Councils' funds

204 Council to establish and maintain accounts with authorised deposit-taking institutions

A council must establish and maintain at least one account with an authorised deposit-taking institution for its consolidated fund and at least one account with an authorised deposit-taking institution for its trust fund.

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205 Withdrawal of certain money

A council must ensure that the following classes of money are withdrawn for use only for the purpose for which it is held or for investment in accordance with section 625 of the Act:

- (a) money that the council must set aside to repay the principal outstanding on loans made to the council on interest-only terms,
- (b) money lent to the council not yet expended for the purpose for which the money was obtained,
- (c) money that the council must set aside to meet outstanding claims to be met by the council under any self-insurance scheme that the council operates.

Note. Section 409 (3) of the Act contains requirements in respect of the use of other classes of money. Those classes are:

- (a) money received as a result of levying a special rate or charge,
- (b) money that is, by the provisions of an Act, required to be set aside for a specific purpose,
- (c) money received from the Government or a public authority for a specific purpose.

Section 625 of the Act specifies the way in which a council may invest its surplus funds.

Division 5 Accounting records and accounting practices

206 Accounting records and accounting practices to accord with the Code

- (1) A council's accounting records must be kept in a form that accords with the Code.
- (2) A council's accounting practices must accord with the Code.

Note. Section 412 of the Act contains the general requirements for the keeping of a council's accounting records.

207 Responsibility for accounting records

- (1) The responsible accounting officer of a council is responsible for keeping the council's accounting records.
- (2) The responsible accounting officer must ensure that the accounting records are kept up-to-date and in an accessible form.
- (3) The responsible accounting officer must take all reasonable measures to ensure that:
 - (a) all money payable to the council is collected or recovered promptly, and
 - (b) appropriate arrangements are implemented for the security and banking of money received by the council, and

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- (c) the assets of or under the control of the council are properly accounted for, and
- (d) liabilities are incurred by the council only with the authority of the council and the council's funds are properly spent in meeting those liabilities, and
- (e) appropriate budgeting and accounting systems (including internal control systems) are established and maintained for the purposes of the council, and
- (f) adequate measures are taken to protect the council's valuable securities and accounting records from loss, destruction, damage and theft.

208 Production of accounting records

A member of the staff of a council who has control of any of the council's accounting records must:

- (a) produce those records for inspection and audit in proper order whenever directed or requested to do so by the council's mayor, responsible accounting officer, general manager (if not the council's responsible accounting officer) or auditor or by a Departmental representative, and
- (b) render all practicable assistance to the mayor, responsible accounting officer, general manager, auditor or Departmental representative with respect to those records.

209 Particular responsibilities of the general manager

The general manager of a council must ensure that:

- (a) the provisions of the Act, this Regulation and any other written law relating to councils' financial obligations or the keeping of accounts by councils are complied with, and
- (b) effective measures are taken to secure the effective, efficient and economical management of financial operations within each division of the council's administration, and
- (c) authorising and recording procedures are established to provide effective control over the council's assets, liabilities, revenue and expenditure and secure the accuracy of the accounting records, including a proper division of accounting responsibilities among the council's staff, and
- (d) lines of authority and the responsibilities of members of the council's staff for related tasks are clearly defined.

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210 Council to rectify defects in internal control systems

On becoming aware:

- (a) that the systems for properly accounting for the receipt, investment, handling or expenditure of money by a council are defective or inadequate, or
- (b) that the existing systems established for those purposes are not being complied with,

the Director-General may, by notice in writing served on the council, direct the council to remedy the defect or inadequacy, or to comply with the existing systems. The council must comply with such a direction.

Note. Failure to comply with a direction under this clause may lead to an investigation being held under Part 5 of Chapter 13 of the Act.

211 Authorisation of expenditure

- (1) A council, or a person purporting to act on behalf of a council, must not incur a liability for the expenditure of money unless the council at the annual meeting held in accordance with subclause (2) or at a later ordinary meeting:
 - (a) has approved the expenditure, and
 - (b) has voted the money necessary to meet the expenditure.
- (2) A council must each year hold a meeting for the purpose of approving expenditure and voting money.
- (3) All such approvals and votes lapse at the end of a council's financial year. However, this subclause does not apply to approvals and votes relating to:
 - (a) work carried out or started, or contracted to be carried out, for the council, or
 - (b) any service provided, or contracted to be provided, for the council, or
 - (c) goods or materials provided, or contracted to be provided, for the council, or
 - (d) facilities provided or started, or contracted to be provided, for the council,
 before the end of the year concerned, or to the payment of remuneration to members of the council's staff.

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212 Reports on council investments

- (1) The responsible accounting officer of a council:
 - (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
 - (i) if only one ordinary meeting of the council is held in a month, at that meeting, or
 - (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and
 - (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.
- (2) The report must be made up to the last day of the month immediately preceding the meeting.

Note. Section 625 of the Act specifies the way in which a council may invest its surplus funds.

213 Restrictions on writing off debts to a council

- (1) This clause does not apply to amounts owed to a council for rates or other charges for which the Act, or any other regulation in force under the Act, makes specific provision for writing off those amounts in specified circumstances.
- (2) A council must from time to time, by resolution, fix an amount above which debts to the council may be written off only by resolution of the council.
- (3) A debt of or below that amount can be written off either by resolution of the council or by order in writing of the council's general manager. In the absence of a resolution under subclause (2), the council's debts can be written off only by resolution of the council.
- (4) A resolution or order writing off a debt to a council must:
 - (a) specify the name of the person whose debt is being written off, and
 - (b) identify the account concerned, and
 - (c) specify the amount of the debt,or must refer to a record kept by the council in which those particulars are recorded.
- (5) A debt can be written off under this clause only:
 - (a) if the debt is not lawfully recoverable, or

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- (b) as a result of a decision of a court, or
 - (c) if the council or the general manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.
- (6) The fact that a debt is written off under this clause does not prevent the council concerned from taking legal proceedings to recover the debt.

Division 6 Annual financial reports

214 Additional requirements for preparation of a council's financial reports

- (1) For the purpose of section 413 (2) (b) of the Act, any matters required by the Code or the Manual to be included in a council's financial reports are prescribed matters.
- (2) For the purpose of section 413 (3) (b) of the Act, the Code and the Manual are prescribed standards.

215 Statement by a council on its annual financial reports

- (1) The statement required by section 413 (2) (c) of the Act must:
 - (a) be made by resolution of the council, and
 - (b) be signed by:
 - (i) the mayor, and
 - (ii) at least one other member of the council, and
 - (iii) the responsible accounting officer, and
 - (iv) the general manager (if not the responsible accounting officer).
- (2) The statement must indicate:
 - (a) whether or not the council's annual financial reports have been drawn up in accordance with:
 - (i) the Act and this Regulation, and
 - (ii) the Code and the Manual, and
 - (iii) the *Australian Accounting Standards* issued by the Australian Accounting Standards Board, and
 - (b) whether or not those reports present fairly the council's financial position and operating result for the year, and
 - (c) whether or not those reports accord with the council's accounting and other records, and

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(d) whether or not the signatories know of anything that would make those reports false or misleading in any way,

and include such information and explanations as will prevent those reports from being misleading because of any qualification that is included in the statement.

(3) The council must ensure that the statement is attached to the relevant annual financial reports.

216 Council's annual financial reports to be amended in certain cases

(1) If the Director-General, by notice in writing served on a council, directs the council to amend its annual financial reports in a way specified in the notice, the council must comply with the direction as soon as practicable after service of the notice.

(2) A council that amends its annual financial reports to give effect to such a direction must give public notice of the amendment in a newspaper circulating in its area. The council must specify in the notice that any member of the public is entitled to inspect, without fee, the amended financial reports at each of the council's offices during the council's ordinary office hours.

Division 7 Annual reports

Subdivision 1 Additional information—general

217 Additional information for inclusion in annual report

(1) For the purposes of section 428 (2) (r) of the Act, an annual report of a council is to include the following information:

(a) details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),

(b) a statement of the total remuneration comprised in the remuneration package of each senior staff member employed during the year that is to include, for each such member, the total of the following:

(i) the total value of the salary component of the package,

(ii) the total amount of any bonus payments, performance payments or other payments made to the member that do not form part of the salary component of the member's package,

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- (iii) the total amount payable by the council by way of the employer's contribution or salary sacrifice to any superannuation scheme to which the member may be a contributor,
 - (iv) the total value of any non-cash benefits for which the member may elect under the package,
 - (v) the total amount payable by the council by way of fringe benefits tax for any such non-cash benefits,
 - (c) details of the activities undertaken by the council during the year to develop and promote services and programs that provide for the needs of children,
 - (d) for any year ending on or after 30 June 2005:
 - (i) a report (in the form required by the Department) on the council's performance in relation to access and equity activities to meet residents' needs outlined in the council's management plan relating to the year and undertaken by the council during the year, and
 - (ii) a list of the Category 1 business activities of the council, and
 - (iii) a list of the Category 2 business activities of the council, and
 - (iv) a statement of expenses, revenues and assets in relation to each Category 1 business activity, and
 - (v) a summary of the progress of the council in implementing the principles of competitive neutrality, and
 - (vi) a statement as to whether the competitive neutrality pricing requirements have or have not been applied to each Category 1 business activity of the council, and
 - (vii) a statement regarding the establishment of a complaints handling mechanism for competitive neutrality complaints, and as to the manner in which the council publicises and makes the mechanism known to the public, and
 - (viii) a comparison of the actual performance of each Category 1 business activity of the council (measured in accordance with the criteria set out in the relevant management plan) with its projected performance (outlined in the management plan relating to the year concerned), together with a statement of the reasons for any difference between them, and

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- (ix) a summary of competitive neutrality complaints that have been made against the council during the year (including details of the number of complaints received and the subject matter or nature of the complaints) and a statement as to the outcome of those complaints (including details as to the number of complaints disposed of during the year and the number still outstanding at the end of the year).
- (2) An annual report of a council is to include the matter required by Subdivision 2 (State of the environment reports).
- (3) In this clause:
competitive neutrality pricing requirements means the requirements, outlined in the Pricing and Costing Guidelines, that a council's business activities:
- (a) if the council has provided or intends to provide loan funds to the business activity, include the payment of debt guarantee fees to the council, and
 - (b) factor into costs an appropriate return on capital invested, and
 - (c) include Taxation Equivalent Regime payments to the council.
- Taxation Equivalent Regime payments* has the same meaning as in the Pricing and Costing Guidelines.

Subdivision 2 State of the environment reports

218 Meaning of "environmental indicator"

For the purposes of this Subdivision, an *environmental indicator* is an aspect of the natural world or built environment that can be monitored to provide information on environmental conditions and trends. Environmental indicators include physical, chemical, biological and socio-economic measures of the environment (such as measurements of contaminants in soil, of the health of fish species and of the number of motor vehicles per household) that can be used to assess natural resources and environmental quality.

Note. This elucidation of the term "environmental indicator" is based on the definition contained in the Glossary to the Report called *Australia: State of the Environment 1996* issued by the Commonwealth.

219 Requirements for state of the environment reports

- (1) All state of the environment reports must meet the requirements of clause 220.
- (2) In addition:
 - (a) a comprehensive state of the environment report must meet the requirements of clauses 221 and 222, and

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- (b) a supplementary state of the environment report must meet the requirements of clause 223.

220 Preparation of all state of the environment reports

A state of the environment report meets the requirements of this clause if the council, in preparing the report, does each of the following:

- (a) it considers the guidelines and directions (if any) relating to the preparation and content of state of the environment reports that are issued to councils from time to time by the Director-General,
- (b) it consults the community (including environmental groups),
- (c) it involves the community (including environmental groups) in monitoring changes to the environment over time,
- (d) it produces the report in a form that is readily understandable by the general community.

221 Preparation of comprehensive state of the environment reports

- (1) A state of the environment report meets the requirements of this clause if the council, in preparing the report, does each of the following in relation to each environmental sector specified in section 428 (2) (c) of the Act:

- (a) it draws on any environmental data held by other councils that is relevant to the sector,

Note. For example, in relation to the water environmental sector, the data might include information concerning water catchments and groundwater aquifers in nearby areas.

- (b) it identifies and applies appropriate environmental indicators for the sector,
- (c) it considers and applies the pressure-state-response model in:
 - (i) the analysis and interpretation of data, and
 - (ii) the identification of appropriate environmental indicators for the sector, and
 - (iii) the presentation of results in the report.

- (2) In this clause, the *pressure-state-response model* means a model for reporting on environmental sectors, in which:

- (a) the *pressure* component identifies and describes the pressure that human activities put on their immediate environment and their natural surroundings, and
- (b) the *state* component identifies and describes the current and projected state of the environment, and

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- (c) the *response* component identifies and describes the response of councils, government agencies, industry and communities to the pressures on, and state of, the environment.

222 Content of comprehensive state of the environment reports

A state of the environment report meets the requirements of this clause if it does each of the following in relation to each environmental sector specified in section 428 (2) (c) of the Act:

- (a) it provides, as a basis for comparison in subsequent reports, a statement outlining the condition (as at the date of the report) of the sector,
- (b) it makes the relevant comparison with the equivalent statement contained in the last report,
- (c) it includes (or refers to) all relevant background information,
- (d) it specifies the relevant environmental indicators,
- (e) it reports on all major environmental impacts and related activities,
- (f) it identifies any gaps in relevant information and indicates the way in which the missing information is to be obtained (or, if it cannot be obtained, why it cannot be obtained).

223 Content of supplementary state of the environment reports

A state of the environment report meets the requirements of this clause if it does each of the following:

- (a) it identifies any new environmental impacts since the council's last state of the environment report,
- (b) it updates the trends in environmental indicators that are important to each environmental sector specified in section 428 (2) (c) of the Act.

224 Frequency of comprehensive and supplementary reports

- (1) The first state of the environment report of a council for the year ending after each election of the councillors for its area must be a comprehensive state of the environment report.

Note. Under section 287 of the Act, such an election must be held every 4 years. A council's *year* is defined in the Dictionary to the Act to end on 30 June, and its annual report (which includes its state of the environment report) must be prepared within 5 months after that date (section 428)—that is, by 30 November. Accordingly, this subclause requires the state of the environment report prepared by the November of the year *following* the year in which the election is held to be a comprehensive state of the environment report.

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- (2) The other state of the environment reports may each be either a comprehensive state of the environment report or a supplementary state of the environment report, as the council chooses.

225 Report may contain information relating to region

- (1) A council must include in each of its state of the environment reports information relating to the general region in which the council's area is located if the requirements of section 428 (2) (c) of the Act in relation to the area cannot be met solely by reference to that area.
- (2) Such information may, in any case, be included in any state of the environment report.
- (3) A report that includes information relating to the general region in which the council's area is located:
- (a) must clearly indicate the parts of the report that relate solely to the council's own area, and
 - (b) must meet all the requirements of the Act and this Subdivision in relation to that area.

226 Comprehensive report taken to include supplementary report

A council's comprehensive state of the environment report is taken to include any subsequent supplementary state of the environment report prepared (before the preparation of the next comprehensive state of the environment report) in relation to the same area.

Division 8 Miscellaneous

227 Matters to be taken into consideration by auditor

For the purposes of section 415 (3) of the Act, the matters that an auditor must consider and provide comment on in auditing a council's financial reports are the matters that the Code requires an auditor to consider and provide comment on.

228 Half-yearly inspection of council's accounting records

- (1) For the purposes of section 426 (1) (b) of the Act, the prescribed periods are after the first 6 months of each financial year.
- (2) The responsible accounting officer of a council must:
- (a) ensure that, within 1 month after the first 6 months of each financial year, the council's ledgers are balanced and a list of ledger balances is prepared so as to enable the council's auditor to conduct a six-monthly inspection of the council's accounting records, and

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- (b) as soon as practicable afterwards, notify the council's auditor that those records are available for inspection.

229 Loans to council to be charge on the council's income

The repayment of money borrowed by a council (whether by way of overdraft or otherwise), and the payment of any interest on that money, is a charge on the income of the council.

230 General manager to notify borrowings to Director-General

- (1) Within 7 days after a council borrows money under a loan contract, the general manager must notify the Director-General of the borrowing.
- (2) This clause extends to further advances made to a council under an existing loan contract, but does not apply to a borrowing by a council by way of overdraft.

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Division 1 Preliminary

231 Definitions

In this Part:

amendment, in relation to an original motion, means a motion moving an amendment to that motion.

chairperson:

- (a) in relation to a meeting of a council—means the person presiding at the meeting as provided by section 369 of the Act, and
- (b) in relation to a meeting of a committee of a council—means the person presiding at the meeting as provided by clause 267.

committee, in relation to a council, means a committee established under clause 260 or the council when it has resolved itself into a committee of the whole.

councillor includes a member of the governing body of a county council.

Division 2 Convening of, and attendance at, council meetings

232 Notice of meetings

- (1) This clause prescribes the manner in which the requirements outlined in section 9 (1) of the Act are to be complied with.
- (2) A notice of a meeting of a council or of a committee must be published in a newspaper circulating in the area before the meeting takes place.
- (3) The notice must specify the time and place of the meeting.
- (4) Notice of more than one meeting may be given in the same notice.
- (5) This clause does not apply to an extraordinary meeting of a council or committee.

233 What happens when a quorum is not present

- (1) A meeting of a council must be adjourned if a quorum is not present:
 - (a) within half an hour after the time designated for the holding of the meeting, or
 - (b) at any time during the meeting.

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- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
 - (a) by the chairperson, or
 - (b) in his or her absence—by the majority of the councillors present, or
 - (c) failing that, by the general manager.
- (3) The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

234 Minister to convene meetings in certain cases

- (1) Whenever an area is constituted or reconstituted, the Minister is required:
 - (a) to convene the first meeting of the council of the area, and
 - (b) to nominate the business to be transacted at the meeting, and
 - (c) to give the councillors notice of the meeting.
- (2) If there is no quorum at that meeting, the Minister may convene meetings in the same manner until a quorum is present.
- (3) The council must transact the business nominated by the Minister for a meeting convened under this clause.

235 Presence at council meetings

A councillor cannot participate in a meeting of a council unless personally present at the meeting.

Division 3 Procedure for the conduct of council meetings

236 Councillor to be elected to preside at certain meetings

- (1) If no chairperson is present at a meeting of a council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

Note. Section 369 (2) of the Act provides for a councillor to be elected to chair a meeting of a council when the mayor and deputy mayor are absent.
- (2) The election must be conducted:
 - (a) by the general manager or, in his or her absence, an employee of the council designated by the general manager to conduct the election, or

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- (b) if neither of them is present at the meeting or there is no general manager or designated employee—by the person who called the meeting or a person acting on his or her behalf.
 - (3) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
 - (4) For the purposes of subclause (3), the person conducting the election must:
 - (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
 - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
 - (5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

237 Chairperson to have precedence

When the chairperson rises during a meeting of a council:

- (a) any councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat, and
- (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

238 Chairperson's duty with respect to motions

- (1) It is the duty of the chairperson at a meeting of a council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

239 Order of business

- (1) At a meeting of a council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the council.

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- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (3) Despite clause 250, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

240 Agenda and business papers for council meetings

- (1) The general manager must ensure that the agenda for a meeting of the council states:
 - (a) all matters to be dealt with arising out of the proceedings of former meetings of the council, and
 - (b) if the mayor is the chairperson—any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
 - (c) subject to subclause (2), any business of which due notice has been given.
- (2) The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.
- (3) The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- (4) The general manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.
- (5) Nothing in this clause limits the powers of the chairperson under clause 243.

241 Giving notice of business

- (1) A council must not transact business at a meeting of the council:
 - (a) unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and
 - (b) unless notice of the business has been sent to the councillors in accordance with section 367 of the Act.

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- (2) Subclause (1) does not apply to the consideration of business at a meeting if the business:
- (a) is already before, or directly relates to a matter that is already before, the council, or
 - (b) is the election of a chairperson to preside at the meeting as provided by clause 236 (1), or
 - (c) is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or
 - (d) is a motion for the adoption of recommendations of a committee of the council.
- (3) Despite subclause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:
- (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.
- Such a motion can be moved without notice.
- (4) Despite clause 250, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

242 Agenda for extraordinary meetings

- (1) The general manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.
- (2) Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:
- (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.
- Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.
- (3) Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

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243 Official minutes

- (1) If the mayor is the chairperson at a meeting of a council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the council or of which the council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the chairperson (being the mayor) or in a report made by a council employee is, so far as adopted by the council, a resolution of the council.

244 Report of a Departmental representative to be tabled at council meeting

When a report of a Departmental representative has been presented to a meeting of a council in accordance with section 433 of the Act, the council must ensure that the report:

- (a) is laid on the table at that meeting, and
- (b) is subsequently available for the information of councillors and members of the public at all reasonable times.

245 Notice of motion—absence of mover

In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of a council:

- (a) any other councillor may move the motion at the meeting, or
- (b) the chairperson may defer the motion until the next meeting of the council at which the motion can be considered.

246 Motions to be seconded

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 243 (2) and 250 (5).

247 How subsequent amendments may be moved

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the council at any one time.

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248 Motions of dissent

- (1) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (2) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- (3) Despite clause 250, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

249 Questions may be put to councillors and council employees

- (1) A councillor:
 - (a) may, through the chairperson, put a question to another councillor, and
 - (b) may, through the general manager, put a question to a council employee.
- (2) However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (3) The councillor must put every such question directly, succinctly and without argument.
- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or council employee under this clause.

250 Limitation as to number of speeches

- (1) A councillor who, during a debate at a meeting of a council, moves an original motion has the right of general reply to all observations that are made by another councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (2) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

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- (3) A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (4) Despite subclauses (1) and (2), a councillor may move that a motion or an amendment be now put:
 - (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
 - (b) if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it.
- (5) The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.
- (6) If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).
- (7) If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.

251 Voting at council meetings

- (1) A councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- (2) If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.
- (3) The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.
- (4) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.

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- (5) Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

Note. Part 11 of this Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that **ballot** has its normal meaning of secret ballot.

252 Representations by members of the public—closure of part of meeting

- (1) A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- (2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

253 Resolutions passed at closed meetings to be made public

If a council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended.

254 Matters to be included in minutes of council meeting

The general manager must ensure that the following matters are recorded in the council's minutes:

- (a) details of each motion moved at a council meeting and of any amendments moved to it,
- (b) the names of the mover and seconder of the motion or amendment,
- (c) whether the motion or amendment is passed or lost.

Note. Section 375 (1) of the Act requires a council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the council (other provisions of this Regulation and of the Act require particular matters to be recorded in a council's minutes).

Clause 255 Local Government (General) Regulation 2005

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Division 4 Keeping order at meetings

255 Questions of order

- (1) The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- (2) A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- (3) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- (4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

256 Acts of disorder

- (1) A councillor commits an act of disorder if the councillor, at a meeting of a council or a committee of a council:
 - (a) contravenes the Act or any regulation in force under the Act, or
 - (b) assaults or threatens to assault another councillor or person present at the meeting, or
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the council or committee on such a motion, amendment or matter, or
 - (d) insults or makes personal reflections on or imputes improper motives to any other councillor, or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or committee into contempt.
- (2) The chairperson may require a councillor:
 - (a) to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b), or
 - (b) to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation, or
 - (c) to retract and apologise without reservation for an act of disorder referred to in subclause (1) (d) or (e).

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- (3) A councillor may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council for having failed to comply with a requirement under subclause (2). The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

257 How disorder at a meeting may be dealt with

- (1) If disorder occurs at a meeting of a council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.
- (2) A member of the public may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.

258 Power to remove persons from meeting after expulsion

If a councillor or a member of the public fails to leave the place where a meeting of a council is being held:

- (a) immediately after the council has passed a resolution expelling the councillor or member from the meeting, or
- (b) where the council has authorised the person presiding at the meeting to exercise the power of expulsion—immediately after being directed by the person presiding to leave the meeting,

a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place and, if necessary, restrain the councillor or member from re-entering that place.

Division 5 Council committees**259 Committee of the whole**

- (1) All the provisions of this Regulation relating to meetings of a council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provision limiting the number and duration of speeches.
- (2) The general manager or, in the absence of the general manager, an employee of the council designated by the general manager is responsible for reporting to the council proceedings in committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.

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- (3) The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

260 Council may establish committees

- (1) A council may, by resolution, establish such committees as it considers necessary.
- (2) A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- (3) The quorum for a meeting of a committee is to be:
- (a) such number of members as the council decides, or
 - (b) if the council has not decided a number—a majority of the members of the committee.

261 Functions of committees

A council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

262 Notice of committee meetings to be given

- (1) The general manager of a council must send to each councillor, at least 3 days before each meeting of the committee, a notice specifying:
- (a) the time and place at which and the date on which the meeting is to be held, and
 - (b) the business proposed to be transacted at the meeting.
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency.

263 Non-members entitled to attend committee meetings

- (1) A councillor who is not a member of a committee of a council is entitled to attend, and to speak at, a meeting of the committee.
- (2) However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
 - (b) to move or second a motion at the meeting, or
 - (c) to vote at the meeting.

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Clause 264

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264 Representations by members of the public—closure of part of meeting

- (1) A representation at a committee meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- (2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

265 Procedure in committees

- (1) Subject to subclause (3), each committee of a council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of a council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).

266 Committees to keep minutes

- (1) Each committee of a council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
 - (a) details of each motion moved at a meeting and of any amendments moved to it,
 - (b) the names of the mover and seconder of the motion or amendment,
 - (c) whether the motion or amendment is passed or lost.
- (2) As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

267 Chairperson and deputy chairperson of committees

- (1) The chairperson of each committee of the council must be:
 - (a) the mayor, or

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- (b) if the mayor does not wish to be the chairperson of a committee—a member of the committee elected by the council, or
 - (c) if the council does not elect such a member—a member of the committee elected by the committee.
- (2) A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
 - (3) If neither the chairperson nor the deputy chairperson of a committee of a council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
 - (4) The chairperson is to preside at a meeting of a committee of a council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

268 Absence from committee meetings

- (1) A member (other than the mayor) ceases to be a member of a committee if the member:
 - (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- (2) Subclause (1) does not apply in respect of a committee that consists of all of the members of the council.

Note. The expression **year** means the period beginning 1 July and ending the following 30 June. See the Dictionary to the Act.

269 Reports of committees

- (1) If in a report of a committee of the council distinct recommendations are made, the decision of the council may be made separately on each recommendation.
- (2) The recommendations of a committee of the council are, so far as adopted by the council, resolutions of the council.

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- (3) If a committee of a council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the chairperson must:
- (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and
 - (b) report the resolution or recommendation to the next meeting of the council.

270 Disorder in committee meetings

The provisions of the Act and of this Regulation relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

271 Certain persons may be expelled from council committee meetings

- (1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10A of the Act, any person who is not a councillor may be expelled from the meeting as provided by section 10 (2) (a) or (b) of the Act.
- (2) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.

Division 6 Miscellaneous**272 Inspection of the minutes of a council or committee**

- (1) An inspection of the minutes of a council or committee of a council is to be carried out under the supervision of the general manager or an employee of the council designated by the general manager to supervise inspections of those minutes.
- (2) The general manager must ensure that the minutes of the council and any minutes of a committee of the council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Note. Section 12 of the Act confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a council or committee of a council.

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Part 10 Meetings

273 Tape recording of meeting of council or committee prohibited without permission

- (1) A person may use a tape recorder to record the proceedings of a meeting of a council or a committee of a council only with the authority of the council or committee.
- (2) A person may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council or a committee of a council for using or having used a tape recorder in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) In this clause, *tape recorder* includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

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Clause 274

Elections

Part 11

Part 11 Elections

Division 1 Preliminary

274 Application of Part and associated Schedules

- (1) This Part (except Division 12) applies to the election of the councillors (by ward or area) and the mayor (by area) of an area by the persons entitled to vote in the area.
- (2) Schedules 7–10 do not apply to elections of the kind referred to in subclause (1).
- (3) Division 12 and Schedules 7–10 apply to other matters as specified in Division 12 (ie the election of a mayor or deputy mayor by councillors, the election of the members of, and the chairperson of, a county council and the conduct of constitutional referendums and council polls).

275 Definitions

- (1) In this Part:

close of the poll, in relation to an election, means 6 pm on the day on which the election is held.

declared institution means an institution declared under clause 327.

declared institutions ballot-box means the ballot-box reserved for the receipt of declared institution votes.

electoral material means any “how to vote” card, handbill, pamphlet or card:

- (a) containing any representation of a ballot-paper or portion of a ballot-paper, or
- (b) containing any representation apparently intended to represent a ballot-paper or portion of a ballot-paper, or
- (c) having on it any directions or suggestions (whether express or implied) in relation to the casting of votes.

electoral official means a person appointed by the returning officer under section 296 (3) of the Act.

Note. An electoral official is appointed to the position of senior deputy returning officer, assistant senior deputy returning officer, deputy returning officer, or clerical assistant.

general manager means, in relation to an election or enrolment, the general manager of the council of the area in which the election is being held or of the area to which the enrolment relates.

nomination day, in relation to an election, means the day specified in clause 286.

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Part 11 Elections

polling day, in relation to an election, means the day specified under clause 288 for the holding of a poll for the election.

postal ballot-box means the ballot-box reserved for the receipt of postal votes.

pre-poll ballot-box means the ballot-box reserved for the receipt of pre-poll votes.

section 305 vote means a vote by an elector whose name is not on the roll of electors for an election and who votes under section 305 of the Act.

senior deputy returning officer means, in relation to a polling place, the senior deputy returning officer in charge of the polling place.

tendered vote means a vote tendered under clause 344.

- (2) In this Part, a reference to a form by number is a reference to a form contained in Schedule 11.

Division 2 Administration

276 Electoral official cannot be candidate

- (1) A person who is nominated for election to civic office in an area cannot be appointed as a returning officer or as an electoral official in respect of an election in that or any other area.
- (2) A returning officer or an electoral official ceases to hold office in respect of an election in an area on being nominated for election in that or any other area.

277 Notice of changes to wards

- (1) If a council divides its area into wards, abolishes all its wards, alters its ward boundaries or names or renames a ward in its area, the general manager of the council must give notice of that fact.
- (2) The notice is to be given:
- (a) by advertisement in a newspaper circulating generally in the council's area, and
 - (b) in writing displayed at the office of the council, and
 - (c) in writing delivered or sent to the Electoral Commissioner.
- (3) If, as a result of the changes referred to in this clause, there are any wards that are new or that have altered boundaries, the notice must include a written description of, and a map showing, the boundaries of the new wards or boundaries as so altered.

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Clause 278

Elections

Part 11

Division 3 Electoral rolls

278 Closing date

- (1) For the purposes of the Dictionary to the Act, *closing date* is defined in this clause.
- (2) The closing date in relation to an election or poll is the date of the fortieth day preceding the day for the election or poll.
- (3) If an election or poll is delayed, the closing date in relation to it is:
 - (a) in the case of a delay occurring before the fortieth day preceding the original day of the election or poll—the date of the fortieth day preceding the new day of the election or poll, or
 - (b) in any other case—the date of the fortieth day preceding the original day.

279 Form of roll of electors

For the purposes of section 301 (2) of the Act, the form of the roll of electors is a form containing the following particulars:

- (a) the ward (if any) and area to which the roll relates,
- (b) a numbered entry containing the surname, other names and address of each elector (the entry being in alphabetical order according to surname).

280 Advertising of enrolments

- (1) The general manager is to give notice of the fact that persons are entitled to vote in an election, constitutional referendum or council poll, and are entitled to be enrolled as electors for a ward or area, if they are residents of the ward or area, or are owners, occupiers, or ratepaying lessees, of rateable land in the ward or area.
- (2) The notice is to invite claims for the inclusion of the names of persons in the roll of electors or for the amendment of any particulars entered in the roll against the names of persons.
- (3) The notice is to be given twice or more in the 60 days before the closing date for the election, constitutional referendum or council poll and each time is to be given by advertisement in a newspaper circulating in the relevant area.
- (4) An advertisement may contain notices required by this clause relating to more than one area.

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Part 11 Elections

281 Enrolment claims and objections

- (1) A claim under section 303 (1) (a) of the Act for inclusion of a person's name is to be in a form containing the following particulars:
 - (a) whether the claim is being lodged with the Electoral Commissioner or the general manager,
 - (b) the person's full name and full address,
 - (c) the person's date of birth,
 - (d) whether the person is entitled to be enrolled as an elector under the Act and whether the person claims enrolment as a resident of a ward or area, or is an owner, occupier, or ratepaying lessee, of rateable land in a ward or area,
 - (e) the full address of any such rateable land,
 - (f) whether the person is already enrolled in another ward (if any) of the same area,
 - (g) particulars of any relevant nomination of the person under section 270, 271 or 272 of the Act (or section 16 or 16A of the *City of Sydney Act 1988*).
- (2) A claim under section 303 (1) (a) of the Act for the amendment of any particulars entered in the roll against a person's name is to be in a form containing the following particulars:
 - (a) whether the claim is being lodged with the Electoral Commissioner or the general manager,
 - (b) the person's full name and full address,
 - (c) particulars of the amendment sought.
- (3) A claim under section 303 (1) (a) of the Act is to be signed by the person who lodges it and to contain a statement signed by a witness to the effect that the witness saw the person sign the claim and believes, to the best of the witness's knowledge, that the statements in the claim are true.
- (4) An objection under section 303 (1) (b) or (c) of the Act to the inclusion of a name or the inclusion of any particulars against a name is to be in a form containing the following particulars:
 - (a) whether the objection is being lodged with the Electoral Commissioner or the general manager,
 - (b) the name or particulars to the inclusion of which the objection is made,
 - (c) the full name and full address of the person lodging the objection,
 - (d) the reasons for the objection.

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Clause 282

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Part 11

- (5) An objection under section 303 (1) (b) or (c) of the Act is to be signed by the person who lodges it and that signature is to be witnessed by a justice of the peace.

282 Competing claimants for enrolment

- (1) A general manager who nominates a person under section 272 of the Act must do so on the basis of lots drawn in accordance with this clause.
- (2) For the purposes of this clause, the general manager writes the names of the claimants who are competing for enrolment in respect of the same parcel of land on similar slips of paper. The general manager then folds the slips so as to prevent the names being seen, mixes them, and draws one slip at random.
- (3) The person to be nominated is the one whose name appears on the slip that is drawn.

283 Supply of forms

The Electoral Commissioner and general manager are to supply a reasonable number of copies of forms suitable for use for the purposes of clause 281 free of charge to any person who applies for them.

284 Request for omission of place of living from roll (non-resident electors)

For the purposes of section 739 of the Act, the prescribed form of request for the omission or removal of any matter that would disclose or discloses a person's place of living on the roll of electors is Form 1.

Division 4 Notice of election and nominations

285 Notification of vacancy

When a civic office in an area becomes vacant, the general manager of the council of the area is to give notice of the vacancy within 7 days:

- (a) to the Director-General and the Secretary of the Local Government and Shires Associations of New South Wales if the vacancy is in the office of a mayor elected by councillors, or
- (b) to the Electoral Commissioner, the Director-General and the Secretary of those Associations in any other case.

286 Nomination day

The date of the nomination day for an ordinary election or a by-election is the date of the fifth Friday before the day of the election, or such other date as the Electoral Commissioner determines in a particular case.

Clause 287 Local Government (General) Regulation 2005

Part 11 Elections

287 Place of nomination

The place of nomination is determined by the returning officer, but it is to be the council's office if practicable.

288 Notice of election

- (1) Not less than one week before the nomination day, the returning officer is to give public notice of the election by advertisement in a newspaper circulating in the area.
- (2) The notice must:
 - (a) invite proposals for nomination for the election, and
 - (b) specify where nomination forms may be obtained, and
 - (c) specify the date of the nomination day and the place of nomination, and
 - (d) specify the date when the poll will be held for the election if more candidates are nominated than the number of councillors to be elected, and
 - (e) give notice of the requirements under the Act for proposals for nomination (including the payment of deposits, the provision of candidate information sheets, the grouping of candidates and the creation of group voting squares).
- (3) The notice may contain any other information that the Electoral Commissioner thinks appropriate.
- (4) An advertisement may contain notices required by subclause (1) relating to more than one area.

289 Nomination proposals

- (1) A candidate for election is to be proposed for nomination in a nomination paper:
 - (a) in Form 2 by at least 2 proposers (other than the candidate) who are enrolled in respect of the same ward or area as the one in respect of which the candidate is proposed for nomination, or
 - (b) in Form 3 by the registered officer for a political party registered in the Local Government Register of Political Parties.
- (2) Each candidate must be proposed on a separate nomination paper.
- (3) A nomination paper is not valid unless the person proposed for nomination in the paper has completed and signed the Form of Consent included in the paper.

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Clause 290

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- (4) A nomination paper is not in Form 2 or 3 unless:
 - (a) it has printed on the back, or on an attached sheet, sections 274, 275, 276 and 283 of the Act, and
 - (b) it is accompanied by a candidate information sheet that is in such form that the requirements of section 308 (1) of the Act can be satisfied, and
 - (c) if the nomination proposal is for an ordinary election, it is accompanied by a statistical information sheet as specified in those forms.
 - (5) A nomination paper must be delivered, sent or transmitted by facsimile so as to reach the returning officer by 5 pm on the second-last day before the nomination day (for example, by 5 pm on the Wednesday before a nomination day that falls on a Friday). The returning officer must give a receipt for it if asked to do so.
 - (6) On receipt of a nomination paper, the returning officer must endorse on it the date and time of receipt.
 - (7) The general manager is to supply a reasonable number of copies of Forms 2 and 3 free of charge to any person who applies for them.
 - (8) A deposit for a nomination proposal is to be paid in cash or by a cheque issued by an authorised deposit-taking institution but not by way of personal cheque. The deposit must be paid by 5 pm on the day 2 days before the nomination day.

290 Candidate information sheets

- (1) The matters prescribed for the purposes of section 308 (2) of the Act that are to be included in a candidate information sheet are the proposed candidate's full name and full residential address.
- (2) Nothing in this clause prevents the inclusion of other matters (such as the proposed candidate's date of birth, occupation, trade and professional qualifications, membership of organisations, the registered party (if any) that has endorsed the proposed candidate, statements as to the proposed candidate's policies and beliefs, and other qualifications relevant to the proposed candidature).
- (3) A candidate information sheet must be written or typed on a form supplied by the returning officer or an electoral official. The form is to consist of one side of an A4 sheet of paper.

Clause 291 Local Government (General) Regulation 2005

Part 11 Elections

291 Withdrawal of nomination proposals

A nomination proposal may be withdrawn by the delivery, sending or transmission by facsimile to the returning officer before 11 am on the nomination day of a notice in writing signed by the person proposed for nomination.

292 Multiple nomination proposals

- (1) If a person has been proposed for nomination in respect of more than one ward in an area, and by 11 am on the nomination day there are still proposals for the nomination of the person in respect of more than one ward in that area, those proposals are all invalid.
- (2) A proposal for nomination for election as councillor is invalid if it is made by a person who has already proposed as many candidates for election as councillor for an area or ward as there are councillors to be elected for that area or ward.
- (3) A proposal for nomination for election as mayor of an area is invalid if it is made by a person who has already proposed a candidate for election as mayor of that area.
- (4) Subclauses (2) and (3) do not apply in any case where the proposals referred to are made by the registered officer for a political party registered in the Local Government Register of Political Parties.

293 Refund of deposit

- (1) If a person withdraws a proposal for nomination or a person cannot be nominated because the person is not qualified to hold civic office, a deposit in respect of the nomination is to be returned to the candidate or a person authorised by the candidate in writing to receive the deposit.
- (2) If a candidate dies before election day, the deposit is to be returned to the legal personal representative of the candidate.
- (3) When the returning officer has declared the election, with or without poll, the returning officer is to return the deposit to a candidate or to a person authorised by the candidate in writing to receive the deposit if:
 - (a) the candidate is elected, or
 - (b) the candidate receives at least 4 per cent of the total number of formal first preference votes, or
 - (c) the name of the candidate appears in a group on the ballot-papers and any candidate whose name appears in that group is elected or receives at least 4 per cent of the total number of formal first preference votes, or
 - (d) a poll is not taken in the ward or area for which the candidate has been nominated.

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Clause 294

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Part 11

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- (4) A deposit which is not required to be returned is to be forfeited to the council.

294 Inspection of names of persons proposed for nomination

- (1) A person is to be allowed, at any reasonable time in office hours, to inspect, without charge, a list prepared by the returning officer of the full names and residential addresses of persons proposed for nomination and the names under which those persons have requested, in the consents to their nomination papers, that they be shown on the ballot-papers.
- (2) A copy of the list in its current form must be displayed at the office of the returning officer between the time when the first name is placed on the list and noon on the nomination day.

295 Returning officer to nominate candidates

- (1) On the nomination day the returning officer is to do the following, commencing at noon:
- (a) attend at the place of nomination,
 - (b) read aloud the full names of the persons proposed for nomination and the names under which the persons have requested, in the consents to their nomination papers, that they be shown on the ballot-papers and of the wards or area for which they are proposed,
 - (c) announce any withdrawals,
 - (d) cancel the nomination papers of the persons who have withdrawn,
 - (e) nominate as candidates for election the persons whose nomination papers the returning officer believes to be valid and that have not been cancelled.
- (2) The name under which the returning officer is to nominate a person as a candidate for election is:
- (a) the name under which the person has requested, in the consent to that person's nomination paper, that the person be shown on the ballot-papers, or
 - (b) if the returning officer is not satisfied that that name is either one of the given names of the person or a generally recognised abbreviation or derivative of one of the given names together with the full surname of the person—the first given name and the surname of the person.

Clause 296 Local Government (General) Regulation 2005

Part 11 Elections

296 Declaration of uncontested election

- (1) If, on the nomination day, candidates are taken to be elected in accordance with section 311 of the Act, the returning officer must, at the place and time of nomination, declare in writing the names of the candidates so elected.
- (2) The declaration is to be signed by the returning officer and is to state the names of the candidates declared elected (being the names under which those candidates were nominated by the returning officer) and the ward or area for which they have been elected.
- (3) After declaring the election, the returning officer must:
 - (a) display the written declaration in a conspicuous position at the office of the relevant council and at the place of nomination (if that place is not the office of the council), and
 - (b) deliver or send a copy of the written declaration to the Electoral Commissioner, the Director-General, the Secretary of the Local Government and Shires Associations of New South Wales, and the relevant general manager, and
 - (c) insert a copy of the written declaration in a newspaper circulating in the relevant area.
- (4) The general manager of a council must, on application to the council by any person, deliver or send to the person a copy of the written declaration.

Division 5 Polling places

297 Polling places

- (1) At least one polling place is to be appointed by the Electoral Commissioner for each ward.
- (2) A place is to be appointed by the Electoral Commissioner as the principal polling place for the area.
- (3) A polling place is not to be appointed after the nomination day.

298 Pre-poll voting offices

For the purpose of enabling electors to vote in person before election day, the Electoral Commissioner:

- (a) is to appoint a pre-poll voting office for the returning officer, and
- (b) may appoint additional pre-poll voting offices for senior deputy returning officers.

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Clause 299

Elections

Part 11

Division 6 Preparation for poll

299 Poll

A contested election is to be determined by ballot.

Note. Section 309 of the Act specifies the circumstances in which a contested election is to be held.

300 Notification of poll

- (1) If there is to be a contested election in respect of any ward or area, the returning officer must at the time and place of nomination publicly announce the following:
 - (a) that a poll will be taken in respect of the ward or area,
 - (b) the date of the poll,
 - (c) the full names of the persons who have become candidates and the names under which those persons have been nominated as candidates,
 - (d) the names of the political parties (if any) that must be printed adjacent to the names of the candidates on the ballot-papers,
 - (e) whether the word “Independent” must be printed adjacent to the name of any candidate on the ballot-papers,
 - (f) the location of the polling places where the poll will be taken on election day,
 - (g) the location of the pre-poll voting office or offices and the hours between which and the days on which electors may vote at the pre-poll voting office or offices.
- (2) The returning officer must also notify the matters referred to in subclause (1) (and any other matters that the Electoral Commissioner determines should be notified) in a newspaper circulating in the area and in a written notice posted at the council’s office.

301 Claims for grouping of candidates

- (1) This clause applies to a claim under section 308A (Grouping of candidates) of the Act.
- (2) A claim must be in writing in the form approved by the Electoral Commissioner to be effective.
- (3) A claim is of no effect if:
 - (a) the name of any candidate included in the claim is included in any other claim, or

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- (b) the claim is withdrawn by the candidates who made the claim by a notice in writing in the form approved by the Electoral Commissioner delivered or sent to the returning officer so as to reach the returning officer before noon on the nomination day.
- (4) On receipt of a claim or notice of withdrawal of a claim, the returning officer must endorse on it the date and time of receipt.

302 Order of candidates and groups on ballot-papers

If after noon on the nomination day there are:

- (a) two or more candidates, not included in a group, for the election, the returning officer must immediately hold a ballot in accordance with clause 303 to determine the order of those candidates' names on the ballot-papers, or
- (b) two or more groups of candidates for the election, the returning officer must immediately hold a ballot in accordance with clause 304 to determine the order of those groups on the ballot-papers.

303 Order of ungrouped candidates on ballot-papers

- (1) A ballot referred to in clause 302 (a) is to be conducted in the following manner:
 - (a) the returning officer must, at the place of nomination and before all persons present, make out in respect of each candidate a slip bearing the name under which the candidate has been nominated,
 - (b) the returning 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 returning officer must then shake and rotate the ballot-box and, on request, permit any other person present to do the same,
 - (d) the returning officer must then unfasten the ballot-box and take out and open each container one by one,
 - (e) the returning officer must then announce to the persons 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 the placing of all the names has been determined,
 - (f) the returning officer must sign the record and allow any of the persons present to do the same,
 - (g) the returning officer must promptly deliver or send the original of the record to the Electoral Commissioner.

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- (2) Each candidate or an agent of each candidate is entitled to be present at a ballot in accordance with this clause.

304 Order of groups of candidates on ballot-papers

- (1) A ballot referred to in clause 302 (b) is to be conducted in the following manner:
- (a) the returning officer must, at the place of nomination and before all persons present, make out in respect of each group of candidates a slip bearing the surname of every candidate in the group and, if the returning officer considers it necessary to do so, the given names or the initial letter or letters of the given names of every candidate in the group,
 - (b) the returning 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 returning officer must then shake and rotate the ballot-box and, on request, permit any other person present to do the same,
 - (d) the returning officer must then unfasten the ballot-box and take out and open each container one by one,
 - (e) the returning officer must then write the word "Group" followed by the letter "A" on the slip enclosed in the container first taken from the ballot-box and write the word "Group" followed by the letter "B" on the slip enclosed in the container next taken from the ballot-box, and so on until the word "Group" and a successive letter of the English alphabet (or, if there are more than 26 groups, a distinctive symbol determined by the returning officer) have been written on each slip,
 - (f) the returning officer must then announce to the persons present, and record, the names of the candidates in each group and include in that record, before the names of the candidates in each group, the word "Group" followed by the identifying letter or symbol determined in respect of that group in accordance with paragraph (e),
 - (g) the record must be signed by the returning officer and may also be signed by any of the persons present,
 - (h) the returning officer must promptly deliver or send the original of the record to the Electoral Commissioner.
- (2) Each candidate or an agent of each candidate is entitled to be present at a ballot in accordance with this clause.

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305 Form of ballot-papers

- (1) The returning officer is to have ballot-papers printed for the election and is to provide a sufficient number of ballot-papers to be initialled and used for the election.
- (2) Every ballot-paper must contain a mark that has been determined by the Electoral Commissioner.
- (3) In printing the ballot-papers for an election in which there are no groups, the names of the candidates are to be printed in one column (starting at the top) in the order determined as referred to in clause 302 (a).
- (4) In printing the ballot-papers for an election:
 - (a) in which there is only one group, the names of candidates included in that group are to be printed in a group before the names of candidates, if any, not included in that group, and
 - (b) in which there are 2 or more groups, the names of candidates included in the groups are to be printed in groups across the ballot-papers (starting from the left side) in the order determined as referred to in clause 304 (1) (b), before the names of candidates, if any, not included in any such group, and
 - (c) the order, within a group, in which the names of candidates in that group are to be printed in the ballot-papers is the order specified in the claim made by them under section 308A of the Act, and
 - (d) the names of candidates, if any, not included in any group are to be printed as a group, without any identification referred to in subclause (5), on the ballot-papers in the order determined as referred to in clause 304 (1) (a).
- (5) In printing the ballot-papers, each group (and each group voting ticket square relating to the group) is to be identified by the word "Group" followed by a successive letter of the English alphabet, starting with the letter "A", and if there are more than 26 groups each group (and each group voting ticket square relating to the group) after the twenty-sixth is to be identified by such symbol as may be determined by the returning officer.
- (6) If 2 or more persons have been endorsed by a political party as candidates in an election and a claim has been made to include the names of those candidates in a group on the ballot-papers, the following requirements apply to the printing of the ballot-papers:
 - (a) the name of the party by which each candidate was endorsed is to be printed adjacent to the name of that candidate on the ballot-papers,

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- (b) if all the candidates were endorsed by the same party and a group voting square is printed on the ballot-papers in relation to the candidates—the name of the party is to be printed on the ballot-papers adjacent to that square,
 - (c) if an application under section 321 of the Act included a request that a composite name be printed on the ballot-papers adjacent to the candidates' group voting square—the composite name is to be printed on the ballot-papers adjacent to that square.
- (7) The ballot-papers must show as the names of the candidates the names under which they were nominated. The names may be accompanied by descriptions or additions to distinguish them from each other in any case where a similarity in the names of 2 or more candidates is, in the opinion of the returning officer, likely to cause confusion.
 - (8) For an election in which there are no groups, the ballot-papers are to be in Form 4. For an election in which there are one or more groups but no group has a group voting square, the ballot-papers are to be in Form 5. For an election in which there are one or more groups and one or more groups has a group voting square, the ballot-papers are to be in Form 6.
Note. Section 323 of the Act requires the name of a party or the word "Independent" to be printed as well in certain circumstances.

306 Application for registration of electoral material

- (1) For the purposes of clause 378, an application may be made, in a form approved by the Electoral Commissioner, to the Electoral Commissioner for the registration of electoral material for a particular election.
- (2) An application must be made during the period commencing on nomination day for the election and ending on the day that is 8 days after that day.
- (3) However, an application may be made to the Electoral Commissioner, during the period commencing on the third day before nomination day and ending on the day before nomination day, for preliminary advice on whether electoral material may be registered, even though the material is incomplete.
- (4) An application must contain a draft or sample of the electoral material.
- (5) The Electoral Commissioner may allow the draft or sample to be altered or replaced before agreeing to registration.

307 Consideration of application for registration

- (1) The Electoral Commissioner must register the electoral material if satisfied that registration is not prohibited by this Division.

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- (2) However, the Electoral Commissioner may refuse to register the electoral material if the application for registration was not made in accordance with this Division.
- (3) The Electoral Commissioner must not register the electoral material if it appears to the Electoral Commissioner:
- (a) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party, group of candidates or candidate, that:
 - (i) the party is not registered under Part 7 of Chapter 10 of the Act or the group or candidate is not registered under Part 8 of Chapter 10 of the Act, or
 - (ii) the application was not made by the registered officer, by the candidates in the group or their official agent or by the candidate or the candidate's official agent (respectively), or
 - (b) in the case of material that contains any representation or indication (whether express or implied) that any candidate is a member of, or pursues or supports any or all of the objects or platform (whether with or without modification) of, a particular political party or group of candidates, that:
 - (i) the party is not registered under Part 7 of Chapter 10 of the Act or the group is not registered under Part 8 of Chapter 10 of the Act, or
 - (ii) the candidate's affiliation with the party or group is not included in the Local Government Register of Candidates under section 325 of the Act, or
 - (iii) the application was not endorsed in writing by the registered officer or by the other candidates in the group or their official agent, or
 - (c) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party or group of candidates in respect of an election, that:
 - (i) the party or group has not endorsed a candidate for the election, or
 - (ii) the material directs or suggests that a candidate or candidates not endorsed by it should be given the first or highest preference or preferences, or

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- (d) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a candidate in respect of an election, that the candidate is not a candidate in that election, or
 - (e) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote without using group voting squares, that the material does not indicate preferences for at least the number of candidates to be elected, or
 - (f) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote by using group voting squares, that the material does not indicate preferences for at least two groups having group voting squares, or
 - (g) that the material is intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his or her vote, because of the use, in the material, of any matter suggesting or indicating party or group affiliation (whether or not that matter is the same as or similar to matter included in a register under Part 8 of Chapter 10 of the Act), or
 - (h) that the material contains words that are obscene or offensive.
- (4) In this clause:
official agent has the same meaning as it has in the *Election Funding Act 1981*.

308 Registration of electoral material

- (1) Registration of the electoral material is effected by the issue of a certificate of registration (in a form approved by the Electoral Commissioner) in respect of a draft or sample of the electoral material.
- (2) Registration may be unconditional or subject to conditions specified in the certificate of registration.
- (3) A certificate signed by the Electoral Commissioner and certifying that specified material was or was not registered on a specified day or during a specified period is admissible in proceedings for an offence under clause 378 and is, without the need for further proof, evidence of the matters certified.
- (4) Electoral material is to be taken to be registered in accordance with this clause even though the material contains some differences from the draft or sample in respect of which the certificate of registration was issued, so long as the material is substantially the same as the draft or sample.
- (5) Registration of electoral material is not a defence to a prosecution for an offence under clause 379.

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309 Supply of rolls and ballot-papers

- (1) On or before the day of polling the returning officer is to:
 - (a) provide for use at each polling place sufficient copies certified under his or her hand to be true copies of the roll of electors for the ward or area in which the poll is to be taken, and
 - (b) deliver to each senior deputy returning officer, and retain, such numbers of the ballot-papers as are sufficient for the use of the electors entitled to vote at each polling place.
- (2) The returning officer is to keep an exact count of all those ballot-papers.
- (3) The returning officer is to retain for use at his or her office:
 - (a) at least one true copy of the roll of electors for the ward or area in which the poll is to be taken, and
 - (b) such number of ballot-papers as the returning officer considers will be required for the use of electors who are permitted to vote at his or her office before polling day.
- (4) The returning officer is to keep an exact count of those ballot-papers.

310 Return of numbers of ballot-papers before poll

Not later than the day before election day, the returning officer is to deliver or send to the Electoral Commissioner a return of the following numbers of ballot-papers:

- (a) the numbers ordered and received from the printer,
- (b) the numbers issued as postal ballot-papers,
- (c) the numbers issued for use at pre-poll voting offices, declared institutions and polling places,
- (d) the numbers not issued at all.

311 Ballot-paper to be initialled

A ballot-paper, before being delivered or sent to an elector, is to be initialled on the back by the returning officer or an electoral official. The initials are to be placed so as to be easily seen when the ballot-paper is folded to conceal the elector's marks. The initials may be written or stamped.

312 Ballot-paper may be written

A ballot-paper need not be one of those printed in accordance with clause 305 to be valid (but is still required to be in Form 4, 5 or 6). If a polling place runs out of ballot-papers, the returning officer or senior deputy returning officer may have the ballot-paper reproduced in writing, or by any other means.

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Division 7 Postal and other special types of voting

Subdivision 1 Postal voting

313 Postal voting: qualifications

A person is qualified for a postal vote under this Subdivision if the person:

- (a) will not throughout the hours of polling on election day be within the ward or area for which the election is being held, or
- (b) will not throughout the hours of polling on election day be within 8 kilometres by the nearest practicable route of any polling place at which he or she is entitled to vote, or
- (c) will throughout the hours of polling on election day be travelling under conditions that prevent him or her from attending at any such polling place to vote, or
- (d) is seriously ill or disabled and so will be prevented from attending at any such polling place to vote, or
- (e) is prevented by approaching maternity from attending at any such polling place to vote, or
- (f) is, by reason of that person's membership of a religious order or religious beliefs, prevented from attending at any such polling place or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours, or
- (g) is, by reason of that person being kept in a prison, prevented from attending at any such polling place to vote, or
- (h) will be, at a place other than a hospital, caring for another person who requires his or her care for medical reasons and so will be prevented from attending at any such polling place to vote, or
- (i) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on election day, be prevented from attending at any such polling place to vote.

314 Postal voting: application

- (1) A person qualified under this Subdivision may apply to the returning officer for a postal ballot-paper and postal voting envelope.
- (2) The application:
 - (a) is to be in Form 7, and
 - (b) is to be completed and signed by the applicant, and
 - (c) is to be witnessed as shown on the application, and

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- (d) is to be placed by the applicant in an envelope addressed to the returning officer and sealed, and
- (e) is to be delivered or sent directly to the returning officer by the applicant (or if the applicant is physically incapable of delivering or sending the application and entrusts it to another person for that purpose, by that person) so that it reaches the returning officer between the nomination day and 5 pm on the fifth day before election day, and
- (f) if received by the returning officer within that period, is to be given a number.

315 Registration of general postal voters

- (1) An elector who is registered as a general postal voter for the purposes of the *Parliamentary Electorates and Elections Act 1912* is taken to be registered as a general postal voter for the purposes of the *Local Government Act 1993* without further application under the latter Act.
- (2) The elector is taken to be so registered for the ward or area corresponding to the address in respect of which the elector is registered as a general postal voter under the *Parliamentary Electorates and Elections Act 1912*.
- (3) The elector must be so registered not later than 5 pm on the nomination day for an election if the applicant is to be treated as a general postal voter for the election.

316 Electors entitled to postal vote

- (1) An elector who duly applies for a postal vote or is registered as a general postal voter is entitled to make a postal vote in the ward or area to which the elector's application or registration relates.
- (2) The Electoral Commissioner must forward to the returning officer as soon as possible after the nomination day for an election a list of those general postal voters registered under the *Parliamentary Electorates and Elections Act 1912* who are entitled to vote at an election in respect of a ward or area.
- (3) The list, when forwarded under subclause (2), must be accompanied by some indication of the signatures of the voters as those signatures appear on the applications they made for registration as general postal voters.

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317 Issue of postal ballot-paper

- (1) On receiving the elector's duly made application for a postal vote or the list on which the elector's name appears, the returning officer is to:
 - (a) make a record that a ballot-paper is being issued to the elector, and
 - (b) deliver or send to the elector a ballot-paper that is initialled on the back by the returning officer or an electoral official, and
 - (c) deliver or send to the elector an envelope bearing both the address of the returning officer and a form of declaration in Form 8 on which the returning officer has filled in the full name of the elector, the address of the land to which the elector's voting entitlement relates, the date of the election and the names of the area and the ward (if any) and the number (if any) given to the elector's application or registration as referred to in this Subdivision.
- (2) Ballot-papers and envelopes delivered or sent under this clause to a non-resident postal voter are to be delivered or sent to the residential address of that elector.

Note. The Electoral Commissioner can (under section 296 (6) of the Act) determine a procedure for the notification by the returning officer of electoral officials as to the issue of postal ballot-papers.

318 Postal voting procedure

- (1) To make a postal vote, an elector is to:
 - (a) show to a witness the ballot-paper and Form 8 declaration delivered or sent by the returning officer under clause 317, and
 - (b) in the presence of the witness, and if the facts on the declaration are correct, sign the declaration in the space provided.
- (2) The witness is to sign the declaration and complete the spaces in it for the address of the witness and the date on which the declaration is signed. The witness is to do those things only if the witness:
 - (a) is at least 18 years old and is not a candidate, or agent of a candidate, for civic office in the area in which the election is being held, and
 - (b) is satisfied as to the elector's identity, and
 - (c) has seen the elector sign the declaration, and
 - (d) knows, from personal knowledge or after reasonable inquiry, that the statements in the declaration are true.

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- (3) The elector is then to do the following in the presence of the witness, but without showing the witness how the elector has voted:
 - (a) vote as directed on the ballot-paper,
 - (b) fold the ballot-paper so that the vote cannot be seen,
 - (c) place the ballot-paper in the envelope addressed to the returning officer and close and seal the envelope.
- (4) The elector is then to deliver or send the envelope, or have it delivered or sent, so as to reach the returning officer before 6 pm on the first business day following election day.
- (5) An envelope containing or purporting to contain a postal ballot-paper is taken to have been received by the returning officer if it is delivered to the senior deputy returning officer at any polling place between 8 am and 6 pm on election day.
- (6) An elector to whom a ballot-paper has been delivered or sent under this Subdivision is not entitled to vote at a polling place without first surrendering the ballot-paper and the declaration envelope to the senior deputy returning officer at the polling place.
- (7) However, if the elector makes a declaration in Form 9 that the elector has not received, or has lost, the ballot-paper or the declaration envelope or both and that the elector will not use them if he or she later receives or finds them, the elector may be permitted to vote.

Note. See clause 387 as to spoilt ballot-papers and clause 388 as to the assistance of electors.

319 Closing time for postal vote

A postal vote that does not reach the returning officer before 6 pm on the first business day following election day is not valid and must not be counted.

320 Receipt of postal ballot-papers

- (1) If the returning officer receives an envelope containing or purporting to contain a postal ballot-paper before 6 pm on the first business day following election day, the officer is to make an appropriate notation on the record referred to in clause 317 (1) (a).
- (2) If the elector's name is on the roll of electors, the returning officer is to place the envelope unopened in the postal ballot-box.
- (3) If the elector's name is not on the roll of electors, the returning officer is to check the particulars on the envelope in accordance with clause 343, and:
 - (a) if it appears to the officer that the elector is entitled to vote—is to place the envelope unopened in the postal ballot-box, or

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- (b) if it appears to the officer that the elector is not entitled to vote—
is to place aside the envelope unopened.

Subdivision 2 Pre-poll voting

321 Pre-poll voting: qualifications

A person is qualified to vote before election day under this Subdivision if the person:

- (a) will not throughout the hours of polling on election day be within the ward or area for which the election is being held, or
- (b) will not throughout the hours of polling on election day be within 8 kilometres by the nearest practicable route of any polling place at which he or she is entitled to vote, or
- (c) will throughout the hours of polling on election day be travelling under conditions that prevent him or her from attending at any such polling place to vote, or
- (d) is, by reason of that person's membership of a religious order or religious beliefs, prevented from attending at any such polling place or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours, or
- (e) will be, at a place other than a hospital, caring for another person who requires his or her care for medical reasons and so will be prevented from attending at any such polling place to vote, or
- (f) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on election day, be prevented from attending at any such polling place to vote.

322 Pre-poll voting: application

- (1) A person qualified under this Subdivision may apply to the returning officer or senior deputy returning officer at a pre-poll voting office for a pre-poll ballot-paper.
- (2) An application for pre-poll voting:
 - (a) is to be in Form 10, and
 - (b) is to be printed or written on a ballot-paper envelope, and
 - (c) is to be obtained by the applicant from the officer, who, before handing it to the applicant, must fill in on the application:
 - (i) the name of the area and ward (if any), and

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- (ii) the name, roll number and (if it appears on the roll) the address of the applicant as they appear on the roll of electors or, if the applicant is claiming to vote under section 305 of the Act, the full name and full address of the applicant, and
 - (d) is to be completed and signed by the applicant in the presence of the officer, and
 - (e) is to be returned to the officer who is to witness the applicant's signature.
- (3) On receiving an application, the officer may, and if requested to do so by any scrutineer, must, put to the elector who made the application such of the questions set out in clause 339 as are applicable to the case, and, if the elector answers the questions satisfactorily or if no questions are required to be put to the elector, the officer must hand to the elector a ballot-paper in Form 4, 5 or 6 that is initialled on the back by the officer.

323 Pre-poll voting procedure

- (1) On receiving a pre-poll ballot-paper, the elector is to:
 - (a) mark his or her vote on the ballot-paper in accordance with the directions on it in view of the returning officer or senior deputy returning officer but so that the officer is unable to see the vote, and
 - (b) fold the ballot-paper so that the vote cannot be seen, and
 - (c) at once return the ballot-paper so folded to the officer.
- (2) When a ballot-paper has been so returned to the officer, the officer must:
 - (a) in the presence of the elector, enclose it in the envelope bearing the elector's application and seal the envelope, and
 - (b) (if the name of the elector is on the roll) place the envelope in the pre-poll ballot-box.
- (3) The officer is to record the name of each elector who makes a pre-poll vote. The record is to be kept at the pre-poll voting office where an elector's application is made.

324 Pre-poll voting by elector not on roll

- (1) If the elector's name is not on the roll of electors and a senior deputy returning officer has sealed an envelope containing the elector's ballot-paper and bearing the elector's application, the officer must deliver or send the envelope to the returning officer.

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- (2) If the elector's name is not on the roll of electors and the returning officer has sealed an envelope containing the elector's ballot-paper and bearing the elector's application or has received such an envelope from a senior deputy returning officer, the returning officer is to check the particulars on the envelope in accordance with clause 343 and:
- (a) if it appears to the officer that the elector is entitled to vote—is to place the envelope unopened in the pre-poll ballot-box, or
 - (b) if it appears to the officer that the elector is not entitled to vote—is to place aside the envelope unopened.

325 Surrender of postal ballot-papers

An elector to whom a postal ballot-paper and form of declaration have been issued is not entitled to vote in accordance with this Subdivision unless the elector first delivers to the returning officer or senior deputy returning officer the elector's postal ballot-paper and form of declaration for cancellation.

326 Pre-poll voting offices and times

- (1) The pre-poll voting office for the returning officer is to be used for the purpose of enabling electors to vote in person before election day in accordance with this Subdivision during the ordinary office hours of the council between the twelfth and second day before election day, between 9 am and 6 pm on the day preceding election day and during such further period on any such day as the Electoral Commissioner may determine.
- (2) In addition, the pre-polling voting offices for senior deputy returning officers are to be used for the purpose of enabling electors to vote in person before election day in accordance with this Subdivision between such hours and on such day or days, being between the twelfth and first days before election day, as the Electoral Commissioner may determine for that office.
- (3) The returning officer or senior deputy returning officer at each pre-poll voting office is to ensure that a copy of each candidate information sheet is displayed at the pre-polling voting office.
- (4) Nothing in this clause prevents the offices referred to in this clause from being used for other purposes in connection with the election.

Notes.

- 1 The Electoral Commissioner can (under section 296 (6) of the Act) determine a procedure for the notification by the returning officer of electoral officials (and vice versa) as to the issue of pre-poll ballot-papers.
- 2 See clause 387 as to spoilt ballot-papers and clause 388 as to the assistance of electors.

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Subdivision 3 Declared institution voting

327 Declared institutions

- (1) The Electoral Commissioner may, not later than on the nomination day, declare an institution in a ward or area to be a declared institution for the purpose of enabling patients or inmates of the institution who are electors of the ward or area to vote in person before election day.
- (2) An institution may be declared under this clause only if it is a nursing home, hospital or similar institution in which a polling place has not been appointed.

328 Application of Parliamentary Electorates and Elections Act 1912

- (1) The provisions that apply to voting at declared institutions are sections 114ZO–114ZR (except section 114ZR (6), (7), (8) (b), (10) and (11)) of the *Parliamentary Electorates and Elections Act 1912*.
- (2) Those provisions apply to voting at declared institutions under the Act in the same way as they apply to voting at declared institutions under the *Parliamentary Electorates and Elections Act 1912*.

329 Modification of provisions

- (1) In the application of the provisions of the *Parliamentary Electorates and Elections Act 1912* referred to in clause 328 to voting at declared institutions, the following modifications apply:
 - (a) a reference in those provisions to a district is taken to be a reference to the ward or area in respect of which the voting is to take place,
 - (b) the reference in section 114ZR (3) of the *Parliamentary Electorates and Elections Act 1912* to the questions prescribed by section 100 (1) of that Act is taken to be a reference to the questions set out in clause 339,
 - (c) the requirement in section 114ZR (3) of the *Parliamentary Electorates and Elections Act 1912* as to the form of the declaration is taken to be a requirement that the declaration be in Form 11,
 - (d) a reference in section 114ZR (5) of the *Parliamentary Electorates and Elections Act 1912* to the forms prescribed in Schedules 4 and 4A to that Act is taken to be a reference to Form 4, 5 or 6,
 - (e) a reference in those provisions of the *Parliamentary Electorates and Elections Act 1912* to the returning officer is taken to include a reference to an electoral official.

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- (2) No offence under the *Parliamentary Electorates and Elections Act 1912* (as applied by this clause) applies under this Regulation.

330 Declared institutions ballot-box

An envelope containing a ballot-paper marked at a declared institution is to be put in the declared institutions ballot-box for the relevant area.

331 Declared institution voting by elector not on roll

- (1) If the elector's name is not on the roll of electors and an electoral official has securely fastened an envelope containing the elector's ballot-paper and bearing the elector's declaration, the official must deliver or send the envelope to the returning officer.
- (2) If the elector's name is not on the roll of electors and the returning officer has securely fastened an envelope containing the elector's ballot-paper and bearing the elector's declaration or has received such an envelope from an electoral official, the returning officer is to check the particulars on the envelope in accordance with clause 343 and:
- (a) if it appears to the officer that the elector is entitled to vote—is to place the envelope unopened in the declared institutions ballot-box, or
 - (b) if it appears to the officer that the elector is not entitled to vote—is to place aside the envelope unopened.

Notes.

- 1 The Electoral Commissioner can (under section 296 (6) of the Act) determine a procedure for the notification by the returning officer of electoral officials (and vice versa) as to the issue of ballot-papers at declared institutions.
- 2 See clause 387 as to spoilt ballot-papers and clause 388 as to the assistance of electors.

Subdivision 4 Mobile booths

332 Mobile booths in hospitals and certain other places

- (1) Mobile polling may take place for the purposes of the Act in accordance with section 87A of the *Parliamentary Electorates and Elections Act 1912*.
- (2) Section 87A of the *Parliamentary Electorates and Elections Act 1912* applies to voting at a mobile polling booth under the Act in the same way as it applies to voting at a mobile polling booth under the *Parliamentary Electorates and Elections Act 1912*.
- (3) No offence under the *Parliamentary Electorates and Elections Act 1912* (as applied by this clause) applies under this Regulation.

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Subdivision 5 Miscellaneous

333 Assistance of officers

In this Part, a reference to a returning officer or a senior deputy returning officer includes a reference to an electoral official appointed to assist the officer in the performance of his or her duties.

Division 8 Voting on election day

334 Principal polling place

- (1) The returning officer is normally to preside and take the poll at the principal polling place.
- (2) However, a senior deputy returning officer may do that instead, and the returning officer may preside at another polling place.

335 Senior deputy returning officer's functions

A senior deputy returning officer is to exercise the functions of the returning officer in respect of the taking of the poll at the polling place at which he or she is presiding.

336 Hours of voting

- (1) The voting at a poll is to commence at 8 am and close at 6 pm on the same day. A person entitled to vote who at the time of closing the poll is within the polling place is to be permitted to vote.
- (2) This clause does not apply to any form of voting under Division 7 (Postal and other special types of voting) of this Part.

337 Scrutineers

- (1) Each candidate may, by instrument in writing signed by the candidate, appoint scrutineers to be present at each place at which polling is carried out, ballot-papers are scrutinised or votes are counted.
- (2) In the case of candidates belonging to a group, such an appointment may be made by any or all of them.
- (3) A scrutineer, on presentation to an electoral official of his or her instrument of appointment as scrutineer, is entitled to be present in accordance with his or her appointment under this clause.
- (4) A scrutineer must, on demand by an electoral official, produce his or her instrument of appointment as scrutineer for inspection.
- (5) A candidate in an election cannot be a scrutineer in relation to the same election or in relation to simultaneous elections in the same area.

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- (6) Nothing in this clause entitles a candidate or group to be represented by more than one scrutineer at any one place at which polling is carried out, ballot-papers are scrutinised or votes are counted.
 - (7) The separate tables or stations within any building, room or other location at which polling is carried out, ballot-papers are scrutinised or votes are counted are taken to be separate places for the purposes of subclause (6).

338 Where electors may vote

A person who is qualified as an elector in respect of a ward (or, if an area is not divided into wards, in respect of an area) is entitled to vote at any polling place appointed for the ward (or area).

339 Questions put to elector

- (1) A person claiming to vote at a polling place must state to an electoral official the name under which the person claims to vote, and such other particulars as the official requires for the purpose of checking that name on the roll.
- (2) The electoral official must check that the name given by the person is on the roll in force for the ward or area for which the polling place has been appointed.
- (3) The electoral official may (and must if required by a scrutineer) require any such person to sign his or her name or make his or her mark in a book to be kept for that purpose.
- (4) The electoral official may (and must if required by a scrutineer) put to the person, before giving the person a ballot-paper, questions in the following form:
 - 1. Are you the person whose name appears as
[name] in the roll of electors for ward of
..... area?
 - 2. Are you 18 years of age or older?
 - 3. Are you:
 - (a) an Australian citizen, or
 - (b) a British subject (other than an Australian citizen) who was on a Commonwealth or State of New South Wales electoral roll on 25 January 1984?
 - 4. Are you disqualified from voting at this election by section 266 of the *Local Government Act 1993*?
 - 5. Have you already voted at this election?

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- (5) A person who fails to satisfy a requirement under subclause (1) or (3) or who does not answer “yes” to questions 1–3, and “no” to questions 4 and 5, in subclause (4) must not be given a ballot-paper and must not be allowed to vote.
- (6) However, if a request for a person’s place of living not to be included in a roll of electors has been granted under section 739 of the Act, the person need not indicate a place of living in response to a requirement under subclause (1) but instead the person is to make a declaration of residence on an envelope in Form 12.
- (7) This clause does not prevent a person from voting:
 - (a) because of errors or omissions in the entry of the person’s name as appearing on the roll if he or she satisfies the electoral official of his or her identity as the person referred to by that name, or
 - (b) because the person’s name is not on the roll if he or she complies with section 305 of the Act.

340 Voting by elector with confidential address

- (1) An elector who has made a declaration of residence under clause 339 is to mark and fold the ballot-paper and return the folded ballot-paper to an electoral official.
- (2) In the presence of the elector and any scrutineers present, the electoral official is to enclose the folded ballot-paper in the envelope containing the declaration of residence and addressed to the returning officer and seal the envelope.
- (3) The electoral official is to deliver or send the envelope to the returning officer.
- (4) The returning officer is to examine the declaration on the unopened envelope and ascertain from the Electoral Commissioner or the general manager whether the residence specified in the declaration is the residence specified in the appropriate request (as affected by any change of residence annotated on the request) under section 739 of the Act.
- (5) If the declaration is in order and the residence is the appropriate one, the returning officer is to open the envelope containing the ballot-paper, extract the ballot-paper and, without damaging the writing on the envelope, place the ballot-paper still folded in the ballot-box for section 305 votes.
- (6) If the declaration is not in order, or the residence is not the appropriate one, the returning officer is to leave the envelope containing the ballot-paper unopened.

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341 Delivery of ballot-paper to elector

- (1) An electoral official is to deliver a ballot-paper initialled on the back by the returning officer or an electoral official to each person who is entitled to vote.
- (2) The electoral official is to make an appropriate notation on the roll of electors to show that the elector has received a ballot-paper.
- (3) The electoral official may require an elector to show the electoral official those initials on the ballot-paper before the elector deposits it in the ballot-box.

342 Voting

After receiving a ballot-paper, an elector is to:

- (a) go alone to an unoccupied space set aside for voting at the polling place, and privately record his or her vote there on the ballot-paper, and
- (b) fold the ballot-paper so as to conceal the vote marked on it but to show clearly the initials on the back, show it so folded to an electoral official, and then put it in the ballot-box without unfolding it, and
- (c) leave the polling place.

343 Elector whose name is not on roll

- (1) An elector who claims to vote under section 305 of the Act, after making the declaration required by that section and receiving a ballot-paper, is to mark the ballot-paper and fold it to conceal the vote marked on it (but to show the initials on the back) and return it so folded to the returning officer, substitute returning officer or senior deputy returning officer.
- (2) For the purposes of section 305 (c) of the Act, the prescribed form of declaration is Form 8 written or printed on an envelope.
- (3) The officer who receives the ballot-paper must, in the presence of the elector and of any scrutineers present, and without unfolding the ballot-paper, enclose it in the envelope, seal the envelope and (if the officer is not the returning officer) deliver or send it to the returning officer.
- (4) The returning officer must examine the declaration before the envelope is opened and, if necessary, make inquiries to determine whether the declaration is in order and the elector is entitled to vote.

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- (5) If the declaration is in order and it appears to the returning officer that the elector is entitled to vote, the returning officer is to open the envelope containing the ballot-paper, extract the ballot-paper and, without damaging the writing on the envelope, place the ballot-paper still folded in the ballot-box for section 305 votes.
 - (6) If the declaration is not in order, or it appears to the returning officer that the elector is not entitled to vote, the returning officer is to leave the envelope containing the ballot-paper unopened.
 - (7) The returning officer and senior deputy returning officers are each to make a list of section 305 votes. On it each officer is to note the giving of a ballot-paper at the polling place where the officer is in charge to an elector who has made a declaration under section 305 of the Act and the number of such votes delivered or sent to the returning officer from that polling place (or, if the officer is the returning officer, retained by him or her).

344 Voting if name already marked on roll

- (1) If an elector claims to vote at a polling place, but the roll of electors has already been marked to show that the elector has received an ordinary, postal or pre-poll ballot-paper, the elector is to be given a ballot-paper if he or she answers the questions set out in clause 339 (4) in the manner specified in clause 339 (5) and a declaration has been completed in Form 13.
- (2) The elector, after marking his or her ballot-paper, is to fold it, show the initials on the back of the ballot-paper to an electoral official and deliver it to the official.
- (3) The official is (in the presence of the elector) to enclose the folded ballot-paper (without unfolding it) in an envelope bearing (or containing) the declaration of the elector required by this clause, and seal the envelope. The official is then to put the envelope in the ballot-box.
- (4) The official is to enter on a list of tendered votes kept at the polling place the giving of a ballot-paper to the elector under this clause.

Note. See clause 387 as to spoilt ballot-papers and clause 388 as to the assistance of electors.

Division 9 Scrutiny and counting

345 Informal ballot-papers

- (1) A ballot-paper of an elector at an election is informal if:
 - (a) the elector has failed to record a vote on it in the manner directed on it, or

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- (b) it has not been initialled on the back by the returning officer or an electoral official, or
 - (c) it contains a mark or writing that, in the returning officer's opinion, would enable the elector to be identified.
- (2) Despite subclause (1), a ballot-paper of an elector at an election in which only one candidate is to be elected is not informal merely because a tick or a cross has been placed in one square and the other square or squares have been left blank. In such a case the tick or the cross is to be treated as a first preference.
 - (3) Despite subclause (1), a ballot-paper of an elector at an election is not informal merely because it does not show the minimum number of preferences required by the directions so long as it shows at least half of the minimum number of preferences required by the directions.
 - (4) Despite subclause (1), a ballot-paper of an elector at an election is not informal merely because a preference (other than a first preference) has been repeated or omitted so long as the ballot-paper shows at least half of the minimum number of preferences required by the directions.
 - (5) Despite subclause (1), a ballot-paper of an elector at an election is not informal merely because it has not been initialled on the back by the returning officer or an electoral official, so long as it bears the mark referred to in clause 305 (2).
 - (6) Despite subclause (1), a ballot-paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot-paper if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot-paper.
 - (7) Nothing in subclause (2) authorises any person to encourage a voter to place a tick or a cross in a square on a ballot-paper.

Note. Section 308C of the Act makes provision concerning the formality of ballot-papers where the voter marks, crosses or ticks a group voting square, or where the ballot papers contain the name of a candidate whom a court has declared to be incapable of being elected.

346 Persons present at scrutiny and count

The Electoral Commissioner or persons authorised by the Electoral Commissioner, the returning officer, electoral officials, scrutineers and police officers on duty are entitled to be present at each place at which polling is carried out, ballot-papers are scrutinised or votes are counted.

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347 Postal, pre-poll and declared institution votes

The returning officer may, at any time after 8 am on the day of the poll and in the presence of any scrutineers lawfully present:

- (a) produce all applications for postal votes and the list and signature indications of general postal voters, open the ballot-box containing postal votes received from postal voters by the returning officer and take out all the envelopes, and follow the procedure set out with respect to postal votes in clause 350 (3) (a)–(d), and
- (b) open the ballot-boxes in the returning officer's possession at that time containing pre-poll votes and any ballot-box containing declared institution votes, take out all the envelopes, count the sealed envelopes unopened and record the count, and check the names on the envelopes against the roll of electors and mark each elector's name in the manner determined by the Electoral Commissioner on a copy of the roll.

348 Initial scrutiny and count

- (1) On the close of the poll at an election each senior deputy returning officer must, in the presence of the electoral officials and scrutineers and any police officers on duty at the polling place, open the ballot-box, and have the ballot-papers scrutinised in his or her presence and under his or her supervision and must reject the informal ballot-papers.
- (2) Each senior deputy returning officer is to have the envelopes containing postal votes and tendered votes placed on one side as they are taken from the ballot-box.
- (3) After the scrutiny each senior deputy returning officer must have counted, in that officer's presence and subject to that officer's supervision, the first preferences recorded for each candidate, the number of informal, postal and tendered votes, and the number of votes shown on the list of section 305 votes (required under clause 343) as being delivered or sent to the returning officer.
- (4) Then the senior deputy returning officer is to send to the returning officer returns, verified by the signatures of the senior deputy returning officer, another electoral official and any scrutineer who desires to sign the returns, stating:
 - (a) the number of first preferences recorded for each candidate, the number of informal, postal and tendered votes and the number of votes shown on the list of section 305 votes as being delivered or sent to the returning officer, and
 - (b) details of the numbers of ballot-papers in Form 14.

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349 Sending ballot-papers to returning officer

- (1) The senior deputy returning officer must then, in the presence of the witnesses referred to in clause 348 (1), make up:
 - (a) in one parcel the ballot-papers classed as formal and the ballot-papers classed as informal, and
 - (b) in a second parcel the ballot-papers that have not been used, the cancelled postal ballot-papers and forms of declaration, the spoilt ballot-papers, the list of section 305 votes, the envelopes containing postal votes and the envelopes containing tendered votes, and the list of tendered votes, and
 - (c) in a third parcel the certified copies of the rolls supplied to the senior deputy returning officer, signed by the senior deputy returning officer, and all books, rolls and papers (except the ballot-papers and the lists of ballot-papers) kept, used, and received by the senior deputy returning officer in connection with polling.
- (2) The senior deputy returning officer is to do the following:
 - (a) seal the parcels,
 - (b) permit any of the scrutineers who wish to do so to affix their seals to the parcels,
 - (c) endorse the parcels with descriptions of their contents and with the name of the ward and area, the name of the polling place, and the date of the polling,
 - (d) sign with his or her name the endorsement on each parcel,
 - (e) deliver or send the parcels to the returning officer (except if the senior deputy returning officer's functions are being exercised by the returning officer).
- (3) The returning officer may (and must if so required by a scrutineer) have the parcels opened, and have the ballot-papers scrutinised and counted in the presence of the electoral officials, scrutineers and police officers on duty at the principal polling place.
- (4) During such scrutiny, the returning officer must:
 - (a) reject any ballot-paper classed as formal by the senior deputy returning officer if, in the returning officer's opinion, it is informal, and
 - (b) accept any ballot-paper classed as informal by the senior deputy returning officer if, in the returning officer's opinion, it is formal.

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350 Checking of ballot-papers in sealed envelopes

- (1) The returning officer must on the close of the poll produce the applications for postal votes, produce the list and signature indications of general postal voters forwarded to the returning officer, and open the ballot-box containing postal votes received by the returning officer and take all the envelopes from it.
- (2) Postal votes received after the close of the poll but before 6 pm on the first business day following election day are to be dealt with in the same way as postal votes received before the close of the poll.
- (3) The returning officer is then to do the following or have the following done:
 - (a) count the sealed ballot-paper envelopes unopened and record the count,
 - (b) check the names on the envelopes against the roll of electors and, if an elector's name is on the roll and the Form 8 declaration on the envelope has been duly signed and witnessed, mark the roll in the manner determined by the Electoral Commissioner,
 - (c) compare the signature of the elector on each postal vote declaration with the signature of the applicant on the correspondingly numbered application for a postal vote (or the signature of the applicant for registration as a general postal voter), allow the scrutineers to inspect both signatures, and examine each declaration as to its formality or informality,
 - (d) if the returning officer is not satisfied that the signature of the elector on the declaration is that of the applicant who signed the application or that the declaration is formal—mark, initial and keep apart unopened the sealed ballot-paper envelope on which the declaration appears,
 - (e) if the returning officer is satisfied that the signature of the elector on the declaration is that of the applicant who signed the application and that the declaration is formal—turn the sealed ballot-paper envelope so that the declaration is face downwards, then open the envelope (without damaging the writing on it) and take out the ballot-paper and, without inspecting or unfolding it or allowing any other person to do so, place it in a securely fastened ballot-box for further scrutiny,
 - (f) after dealing with all the envelopes and ballot-papers in accordance with paragraphs (d) and (e), open the ballot-box, take out the ballot-papers, unfold and scrutinise them and reject the informal ones.

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- (4) The returning officer must on the close of the poll open the ballot-boxes containing pre-poll votes and declared institution votes, take all the envelopes from them and do the following or have the following done:
- (a) count the sealed ballot-paper envelopes unopened and record the count,
 - (b) check the names on the envelopes against the roll of electors and, if an elector's name is on the roll, mark the roll in the manner determined by the Electoral Commissioner,
 - (c) turn each sealed ballot-paper envelope face downwards, then open the envelope (without damaging the writing on it) and take out the ballot-paper and, without inspecting or unfolding it or allowing any other person to do so, place it in a securely fastened ballot-box for further scrutiny,
 - (d) after dealing with all the envelopes and ballot-papers in accordance with paragraph (c), open the ballot-box, take out the ballot-papers, unfold and scrutinise them and reject the informal ones.
- (5) The returning officer must on the close of the poll produce all envelopes containing tendered votes and do the following or have the following done:
- (a) count the number of envelopes containing tendered votes for each polling place,
 - (b) in the presence of the scrutineers examine the declarations on the envelopes and make such inquiries as the returning officer considers necessary as to whether the persons who signed the declarations are entitled to vote,
 - (c) if the returning officer is not satisfied that the person who signed the declaration is entitled to vote or that the declaration is duly witnessed, keep apart and unopened the envelope on which the declaration appears,
 - (d) if the returning officer is satisfied that the person who signed the declaration is entitled to vote and that the declaration is duly witnessed, turn the envelope so that the declaration is face downwards, then open the envelope (without damaging the writing on it) and take out the ballot-paper and, without inspecting or unfolding it or allowing any other person to do so, place it in a securely fastened ballot-box for further scrutiny,
 - (e) after dealing with all the envelopes and ballot-papers in accordance with paragraphs (c) and (d), open the ballot-box, take out the ballot-papers, unfold and scrutinise them and reject the informal ones.

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Part 11 Elections

351 Finalising the count

- (1) The returning officer must then do the following or have the following done:
 - (a) complete the count by including the postal, pre-poll, declared institution and tendered votes and section 305 votes,
 - (b) ascertain the result of the count in accordance with Schedule 4 or 5, depending on the system of election,
Note. Section 285 of the Act specifies the circumstances in which the optional preferential (Schedule 4) and the proportional (Schedule 5) systems of election are to be used.
 - (c) inform the persons present of the result of the count,
 - (d) immediately notify the Electoral Commissioner of the result of the count,
 - (e) deliver or send written notification to the candidates of the result of the count as soon as practicable after the result is ascertained.
- (2) For the purpose of ascertaining the result of the count, the returning officer may cause some or all of the ballot-papers to be sent to a central counting office administered by the Electoral Commissioner to be counted in accordance with arrangements approved by the Electoral Commissioner.

352 Double candidature: candidate elected as mayor

- (1) If, in any election, one or more of the candidates for election as councillor for a ward in an area (or for an area) are also candidates for election as mayor of the area, the counting of votes in the election of the mayor is to be completed, and the result obtained, before any distribution of preferences in the election of councillors.
- (2) Then the count in the election of councillors is to continue, treating the person who has already been elected as mayor as not being a candidate for election as councillor.
- (3) Each preference indicated on ballot-papers in the election of councillors for the person elected as mayor is disregarded and any subsequent preferences are treated as if the numbers representing them had been reduced by one.

353 Recount

- (1) At any time before the declaration of the poll:
 - (a) a candidate may request a recount of the ballot-papers used in the ward or area for which the candidate was nominated, and
 - (b) the Electoral Commissioner may direct the returning officer to recount any ballot-papers used in the election.

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- (2) A request under subclause (1) (a) must:
 - (a) be in writing, and
 - (b) be signed by the candidate, and
 - (c) set out the reasons for the request, and
 - (d) be lodged with the returning officer within 24 hours after written notification of the result of the count has been delivered or sent to the candidates.
 - (3) The returning officer must again have the ballot-papers scrutinised and counted and, if necessary, have any other papers used at the election inspected, if:
 - (a) a request is received under subclause (1) (a) and the candidate has paid to the returning officer, on behalf of the council, a deposit to cover the cost of the recount and the ballot-papers referred to in the request have not already been recounted, or
 - (b) a direction is received in accordance with subclause (1) (b), or
 - (c) the returning officer in any case believes it necessary.
 - (4) The deposit is to be determined by reference to a scale of charges fixed by the Electoral Commissioner before election day.

354 Who pays for the recount?

- (1) If a recount of ballot-papers is conducted under clause 353 (3) (b) or (c), the council is to pay for the recount.
- (2) If a recount of ballot-papers is conducted under clause 353 (3) (a) and the recount results in an alteration in the candidates who are elected, the deposit referred to in that paragraph is to be refunded to the candidate.
- (3) If a recount of ballot-papers is conducted under clause 353 (3) (a) and the recount does not result in an alteration in the candidates who are elected, the expense of the recount is to be paid out of the deposit and any remainder is to be refunded to the candidate, and any shortfall paid by the council.

355 Result of recount

Immediately after the completion of a recount of ballot-papers, the returning officer must notify the Electoral Commissioner of the result of the recount.

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356 Declaring the election

- (1) The Electoral Commissioner is to approve of the returning officer's declaring the election in writing as soon as practicable after the notification of the result of any recount or it becomes clear that no recount will be required.
- (2) The declaration is to be signed by the returning officer and is to state the number of votes recorded for each candidate, the names of the candidates declared elected (being the names under which those candidates were nominated by the returning officer) and the ward or area for which they have been elected.
- (3) After declaring the election, the returning officer must:
 - (a) display the written declaration in a conspicuous position at the principal polling place and at the office of the relevant council, and
 - (b) deliver or send a copy of the written declaration to the Electoral Commissioner, the Director-General, the Secretary of the Local Government and Shires Associations of New South Wales, and the relevant general manager, and
 - (c) insert in a newspaper circulating in the relevant area a copy of a notice signed by the returning officer and containing the names of the candidates declared elected (being the names under which those candidates were nominated by the returning officer) and the ward or area for which they have been elected.
- (4) The general manager of a council must, on application to the council by any person, deliver or send to the person a copy of the written declaration.

Division 10 Offences

357 Penalty notices

For the purposes of section 314 of the Act, the prescribed form of a penalty notice is Form 15.

358 Misconduct in voting

- (1) A person must not do any of the following:
 - (a) make a declaration that the person knows is false in respect of any matter or thing for which a declaration is required by this Regulation,
 - (b) impersonate an elector for the purpose of voting at an election,

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- (c) vote twice at an election,
- (d) knowingly put more than one ballot-paper in the ballot-box at a polling place (except if each of those ballot-papers relates to a different poll),
- (e) influence an elector's vote by threats or inducements.

Maximum penalty: 10 penalty units.

- (2) This clause applies in relation to an election under clause 395 or 396 and to a constitutional referendum or council poll in the same way as it applies to elections under Chapter 10 of the Act.

359 False statements in forms

- (1) A person must not make a statement that the person knows is false in a paper relating to an election or poll under the Act, or in information supplied to the Electoral Commissioner or a general manager for the purposes of the preparation, maintenance, or revision of an electoral roll under the Act.
- (2) A person must not induce another person to make such a statement.
Maximum penalty: 10 penalty units.

360 Misconduct by witness to postal vote

- (1) A witness must not witness the signature of an elector to an application for a postal ballot-paper and a postal voting envelope unless the witness knows that the statements contained in the application are true, or is satisfied by the applicant's answers to the witness's inquiries or by other means that the statements contained in the application are true.
Maximum penalty: 5 penalty units.
- (2) The witness must not:
 - (a) do anything to find out the elector's vote, or
 - (b) disclose to a third party any knowledge that the witness has of the vote of the elector, or
 - (c) influence the vote of an elector voting by post in the presence of the witness.

Maximum penalty: 10 penalty units.

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361 Misconduct in relation to postal voting

A person to whom an application for a postal ballot-paper and a postal voting envelope, or an envelope containing or purporting to contain a postal ballot-paper, is given by an elector for the purpose of delivery or sending to a returning officer, who has agreed to deliver or send the application or envelope, and who without reasonable excuse fails to deliver or send the application or envelope promptly is guilty of an offence.

Maximum penalty: 10 penalty units.

362 Misconduct by person present at pre-poll or declared institution voting

(1) A person who is present when an elector is attending a pre-poll voting office for the purpose of pre-poll voting or when an elector is visited by a returning officer or senior deputy returning officer for the purpose of voting at a declared institution:

- (a) must comply with a lawful direction given to the person by the returning officer or an electoral official, and
- (b) must not communicate with the elector in relation to the vote, and
- (c) must not assist the elector or in any manner interfere with the elector in relation to the vote, and
- (d) must not look at the elector's vote or do anything to find out how the elector voted.

(2) A person is not guilty of an offence against this clause by virtue of anything done in accordance with clause 388.

Maximum penalty: 10 penalty units.

363 Other misconduct in relation to postal, pre-poll or declared institution voting

A person other than the elector must not mark or purport to mark a vote on a postal or pre-poll ballot-paper or a ballot-paper handed to an elector at a declared institution unless the person in so doing is acting under clause 388.

Maximum penalty: 10 penalty units.

364 Breach of secrecy

An electoral official or scrutineer who knows how a particular elector has voted must not disclose that knowledge.

Maximum penalty: 5 penalty units.

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365 Obstruction of electoral officials

A person must not hinder or obstruct an electoral official or scrutineer in the exercise or performance of his or her functions.

Maximum penalty: 10 penalty units.

366 False answers to questions put by electoral officials

A person who, knowing the answer to be untrue, answers a question put to the person by an electoral official under Division 8 is guilty of an offence.

Maximum penalty: 10 penalty units.

367 Obstructing access to polling place

A person must not obstruct access to a space set aside for voting at a polling place, to a polling place or to a pre-poll voting office.

Maximum penalty: 0.5 penalty units.

368 Persons present in polling place

- (1) A person must not remain in a polling place during polling or during the counting or the scrutiny of the ballot-papers.
- (2) A person who unlawfully remains in a polling place after being requested by the returning officer or an electoral official to leave the polling place is guilty of an offence.
- (3) This clause does not prevent:
 - (a) the Electoral Commissioner, persons authorised by the Electoral Commissioner, the returning officer, electoral officials, scrutineers, and police officers on duty, from being present during those times, or
 - (b) persons engaged in voting (and not exceeding the number determined by the returning officer) from being present during polling for as long as is necessary in order for them to vote.

Maximum penalty: 5 penalty units.

369 Misconduct by scrutineers

- (1) A scrutineer must not within a polling place, pre-poll voting office, declared institution or mobile booth, while polling is in progress:
 - (a) interfere with or influence an elector, or
 - (b) communicate with any person except as necessary to carry out the scrutineer's functions.
- (2) A scrutineer must obey the lawful directions of the returning officer or of an electoral official.

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- (3) A scrutineer does not breach subclause (1) merely by wearing the badge or emblem of a candidate or political party.

Maximum penalty: 10 penalty units.

370 Misconduct at polling place or pre-poll voting office

A person must not, without lawful authority:

- (a) remove a ballot-paper from a polling place or pre-poll voting office, or
- (b) enter a space set aside for voting in a polling place while another person is in that space, or
- (c) remain in a space set aside for voting in a polling place or at a pre-poll voting office for a longer period than is necessary for the purpose of marking his or her ballot-paper, or
- (d) obstruct or unnecessarily delay the proceedings at a polling place or pre-poll voting office.

Maximum penalty: 10 penalty units.

371 Improperly signing or witnessing electoral papers

A person must not do any of the following:

- (a) sign as witness a blank electoral paper,
- (b) sign as witness an electoral paper that has been wholly or partly filled up unless it has been signed by the signatory,
- (c) sign as witness an electoral paper unless the person has seen the signatory sign it,
- (d) write a name that is not his or her own name on an electoral paper as his or her own name,
- (e) sign an electoral paper with a signature that purports to be that of another person.

Maximum penalty: 10 penalty units.

372 Forging or uttering electoral papers

A person must not forge an electoral paper or utter a forged electoral paper, knowing it to be forged.

Maximum penalty: 10 penalty units.

373 Stuffing ballot-boxes

- (1) A person must not place in a ballot-box a ballot-paper that the person knows has not been lawfully issued to an elector.

Local Government (General) Regulation 2005

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- (2) An elector must not place in the ballot-box a paper other than the ballot-paper issued to him or her.

Maximum penalty: 10 penalty units.

374 Opening sealed parcels

A person must not intentionally break open a sealed parcel of ballot-papers or other electoral material unless authorised to do so by the returning officer or the Electoral Commissioner or required or authorised to do so by or under any legislation or direction of a court.

Maximum penalty: 10 penalty units.

375 Bribery

A person must not, in relation to an election under the Act, or an elector at such an election, do any of the things set out in section 147 of the *Parliamentary Electorates and Elections Act 1912*.

Maximum penalty: 100 penalty units.

376 Treating

A candidate at an election must not, in relation to an election under the Act, do any of the things set out in section 149 of the *Parliamentary Electorates and Elections Act 1912*.

Maximum penalty: 100 penalty units.

377 Intimidation

A person must not, in relation to an election under the Act, or an elector at such an election, do any of the things set out in section 151 of the *Parliamentary Electorates and Elections Act 1912*.

Maximum penalty: 100 penalty units.

378 Distribution of electoral material on polling day

- (1) A person must not, in a public place, distribute any electoral material on the polling day for an election unless the material has been registered under clause 308.

Maximum penalty: 10 penalty units.

- (2) For the purposes of this clause and without limiting its operation, material is taken to be distributed if it is left in such a position and in such circumstances as to indicate that it is intended to be available for collection by members of the public who are in a public place.

Clause 379 Local Government (General) Regulation 2005

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379 Printing, publishing and distributing false information

- (1) A person must not do any of the following:
- (a) print, publish or distribute a “how to vote” card, electoral advertisement, notice, handbill, pamphlet, or card, containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, if the card, advertisement, notice, handbill or pamphlet includes directions intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his or her vote,
 - (b) print, publish or distribute a “how to vote” card, electoral advertisement, notice, handbill, pamphlet, or card, containing an untrue or incorrect statement intended or likely to mislead or improperly interfere with an elector in or in relation to the casting of his or her vote,
 - (c) print, publish or distribute a “how to vote” card, electoral advertisement, notice, handbill, pamphlet or card using:
 - (i) the name, an abbreviation or acronym of the name or a derivative of the name of a party respectively included in the Local Government Register of Parties (or a name or abbreviation resembling such a name, abbreviation, acronym or derivative) in a way that is intended or likely to mislead any elector, or
 - (ii) the word “Independent” and the name or an abbreviation or acronym of the name or a derivative of the name of a party respectively included in that Register in a way that suggests or indicates an affiliation with that party (unless the name of the party in that Register includes the word “Independent”).

Maximum penalty: 10 penalty units.

- (2) A person is not guilty of an offence against this clause merely by printing, publishing or distributing a “how to vote” card that contains instructions on how to vote for a particular candidate or candidates, so long as those instructions are not intended or likely to mislead an elector in or in relation to the casting of his or her vote.
- (3) A person is not liable to be convicted of both an offence under this clause and an offence under clause 378 (1) if the offences arose out of the same circumstances.

Local Government (General) Regulation 2005

Clause 380

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380 Exhibition of posters

- (1) A person must not, in relation to an election under the Act, do any of the things set out in section 151B of the *Parliamentary Electorates and Elections Act 1912*.
Maximum penalty: 2.5 penalty units.
- (2) The reference in that section to “this Act” is taken to be a reference to the *Local Government Act 1993*.
- (3) The returning officer, an electoral official authorised for the purposes of this clause by a returning officer or any member of the police force may remove or cause to be removed any poster exhibited or posted up in contravention of this clause. Such a poster when so removed is to be confiscated and is to be destroyed.

381 Name and address on advertisements and other material

- (1) A person must not print, publish or distribute matter (for example an advertisement, “how to vote” card, handbill, pamphlet, poster or notice) containing electoral matter (other than the announcement in a newspaper of the holding of a meeting), without legibly showing on the matter:
 - (a) the name and address of the person on whose instructions the matter was printed, and
 - (b) the name of the printer and address at which it was printed.Maximum penalty: 5 penalty units.
- (2) If a newspaper contains matter referred to in subclause (1) and the name of the printer of the newspaper and the address at which it was printed appear on the newspaper in accordance with any Act, subclause (1) does not require that name and address to be shown separately on the matter itself.
- (3) In this clause, *electoral matter* has the same meaning as in section 151B of the *Parliamentary Electorates and Elections Act 1912*.

382 Encouraging ticks or crosses on ballots

- (1) A person must not print, publish or distribute any “how to vote” card, electoral advertisement, notice, handbill, pamphlet or card that encourages any elector to place a tick or a cross in a square on a ballot-paper.
Maximum penalty:
 - (a) in the case of corporation—50 penalty units, or
 - (b) in any other case—10 penalty units.

Clause 383 Local Government (General) Regulation 2005

Part 11 Elections

- (2) A person is not liable to be convicted of both an offence under this clause and an offence under clause 378 (1) or 379 if the offences arose out of the same circumstances.

Division 11 Miscellaneous

383 Adjournment of poll

- (1) When the proceedings for taking the poll at an election are interrupted or obstructed at a polling place by a riot or open violence, the senior deputy returning officer is to adjourn the taking of the poll there to the following day. If necessary the senior deputy returning officer is to adjourn the poll from day to day until the interruption or obstruction has ceased.
- (2) If the senior deputy returning officer fails to open the polling at a polling place for 30 minutes after the time when the polling should have started or if he or she becomes incapable of performing his or her duties after polling has opened, and remains so incapable for a period of 30 minutes or more, the other electoral officials present are to act for the senior deputy returning officer and may exercise his or her functions.
- (3) If for any reason other than riot or open violence the polling has not been opened at a polling place on the polling day or if the polling has been opened but from the absence of necessary forms, documents or materials the poll cannot be proceeded with, the senior deputy returning officer is to adjourn the polling there to a day not later than 21 days following the polling day. The senior deputy returning officer is to cause public notice to be given immediately of the new day.

384 Notice of adjournment to returning officer

- (1) A senior deputy returning officer who adjourns the taking of a poll must give immediate notice of the adjournment to the returning officer. The returning officer must give immediate notice of the adjournment to the Electoral Commissioner.
- (2) In the case of an adjournment at any polling place, the initial scrutiny and count under clause 348 at the polling place and the completion of the count under clause 351 in the ward or area where the poll has been adjourned are not to proceed until the adjourned poll has been finally closed.

385 Votes at adjourned poll

If the poll has been adjourned at a polling place within a ward, only those electors who are entitled to be enrolled for that ward are entitled to vote at the adjourned poll.

Local Government (General) Regulation 2005

Clause 386

Elections

Part 11

386 Postponed and adjourned elections

In the case of an election postponed under section 288 of the Act or adjourned under clause 383:

- (a) ballot-papers already printed may be used for the election, even though they show the original date of the election and not the date to which the election has been postponed or adjourned, and
- (b) the postal ballot-papers issued by the returning officer on or before or after the original date of the election and received by the returning officer up to 6 pm on the first business day following the new date of the election are to be produced by the returning officer, along with the applications for them and the list and signature indications of general postal voters forwarded to the returning officer, at the scrutiny and counting of votes, and
- (c) in the application of this Regulation, the new date of the election is taken to be the election day, and
- (d) the ballot-papers of electors who have voted at a pre-poll voting office or at a declared institution before the original date of the election are to be produced by the returning officer at the scrutiny and counting of votes.

387 Spoilt ballot-papers

If an elector satisfies the returning officer or an electoral official that he or she has spoilt by reason of accident or mistake the ballot-paper handed to him or her, and that ballot-paper has not been enclosed in an envelope in accordance with Division 7 or 8 of this Part, the officer or official, on receipt of the spoilt ballot-paper, must:

- (a) hand or send to the elector a new ballot-paper, and
- (b) cancel and preserve the spoilt ballot-paper.

388 Assistance to certain electors

- (1) If an elector is so disabled or so illiterate that the elector is unable to vote without assistance or if the elector is under a religious obligation not to mark a ballot-paper with his or her own hand, a person appointed by the elector may assist the elector.
- (2) The person so appointed must, in the same manner as would be required if he or she were the elector, mark a vote on the ballot-paper (and complete and sign any declaration) according to the instructions of the elector and then fold and return it to an electoral official.

Clause 389 Local Government (General) Regulation 2005

Part 11 Elections

- (3) However, if (in any form of voting except postal voting) the elector fails to appoint such a person, the senior deputy returning officer must mark a vote on the ballot-paper (and complete and sign any declaration) according to the instructions of the elector and then fold the ballot-paper.
- (4) The senior deputy returning officer must do that in the presence of such scrutineers as are present, or, if there are no scrutineers present, either in the presence of another electoral official or (if the elector so wishes), in the presence of a person appointed by the elector.

389 Signature to electoral paper

- (1) An electoral paper that is required to be signed by a person is to be signed by that person with his or her personal signature.
- (2) If a person who is unable to sign his or her name in writing makes his or her mark as his or her signature to an electoral paper, the mark is taken to be his or her personal signature, if it is identifiable as such, and is made in the presence of a witness who signs the electoral paper as such witness.

390 Check on double-voting

The Electoral Commissioner is to have the rolls checked to determine which electors' names (if any) have been marked more than once.

391 Security of election materials

- (1) The returning officer, after the election has been declared, is to parcel the marked and unmarked ballot-papers, copies of the roll and other papers used in the election.
- (2) The returning officer is to seal, endorse and sign each parcel, and to allow any scrutineers entitled to be present to do the same to each parcel. The endorsement is to specify the contents of each parcel and the name of the ward (if any) and area, as well as the date of the polling, to which the contents relate.
- (3) The returning officer is to forward the parcels to the general manager of the relevant council.
- (4) The general manager is to give to the returning officer a receipt for the parcels once they have been forwarded. The receipt is to specify the endorsement on each parcel.
- (5) The general manager must have the parcels kept securely for 6 months, and then destroyed, unless the Electoral Commissioner in writing directs the general manager to deliver or send the parcels to the Commissioner or to keep them longer than 6 months.

Local Government (General) Regulation 2005

Clause 392

Elections

Part 11

- (6) The returning officer is to detach the statistical information sheet from each nomination paper before the papers are parcelled under this clause. The returning officer is then to forward the sheets to the general manager of the relevant council. The general manager must treat the information on the sheets confidentially and the information is to be made available only to the Director-General.

392 Access to election materials

If a court or the Electoral Commissioner so directs, or any legislation so requires or permits, the general manager is to allow any person to inspect any of the election materials kept under clause 391, except the sealed parcels of marked ballot-papers.

393 Application of Election Funding Act 1981

The manner in which the *Election Funding Act 1981* is to be applied in relation to elections under the Act is modified or provided for in Schedule 6.

Note. Under section 296 (6) of the *Local Government Act 1993*, the Electoral Commissioner may determine any matter not provided for by that Act or the regulations made under it. Such determination might relate to some of the areas originally provided for under the repealed *Local Government Act 1919* (but now not covered in detail under the *Local Government Act 1993*), such as:

- (a) the provision, inspection and security of ballot-boxes, and
- (b) the provision and security of rolls and ballot-papers.

Division 12 Mayors, county councils and referendums

394 Election of mayors by councillors

If a mayor or deputy mayor is to be elected by the councillors of an area, the election is to be in accordance with Schedule 7.

395 Election of chairpersons of county councils

The chairperson of a county council is to be elected in accordance with Schedule 8.

396 Election of members of county councils

Schedule 9 applies in relation to the election of the members of a county council.

397 Constitutional referendums and council polls

This Part applies with such modifications as may be necessary, including the modifications in Schedule 10, to the taking of constitutional referendums and council polls for the purposes of Part 3 of Chapter 4 of the Act in the same way as they apply to an election.

Clause 398 Local Government (General) Regulation 2005

Part 12 Penalty notices

Part 12 Penalty notices

398 Offences in respect of which penalty notices may be served

For the purposes of section 679 (1) of the Act, an offence specified in Column 1 of Schedule 12 is a prescribed offence.

Note. Penalty notices may also be served under other sections of the Act as well as under section 679. See sections 312 and 314 (and clause 357 of this Regulation) concerning failure to vote in council elections, sections 642 and 647 concerning the drinking of alcohol in alcohol-free zones and sections 632, 650 and 651 of the Act (and Schedule 2 to the *Road Transport (General) (Penalty Notice Offences) Regulation 2002*) concerning parking offences.

399 Penalties for offences

For the purposes of section 679 (2) of the Act, the amount shown in Column 2 of Schedule 12 opposite an offence specified in Column 1 of that Schedule is the amount of penalty prescribed for the offence if dealt with under section 679.

Local Government (General) Regulation 2005

Clause 400

Miscellaneous

Part 13

Part 13 Miscellaneous

Division 1 Council seal

400 Council seal

- (1) The seal of a council must be kept by the mayor or the general manager, as the council determines.
- (2) The seal of a council may be affixed to a document only in the presence of:
 - (a) the mayor and the general manager, or
 - (b) at least one councillor (other than the mayor) and the general manager, or
 - (c) the mayor and at least one other councillor, or
 - (d) at least 2 councillors other than the mayor.
- (3) The affixing of a council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- (4) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- (5) For the purposes of subclause (4), a document in the nature of a reference or certificate of service for an employee of the council does not relate to the business of the council.

Division 2 Compulsory acquisition of land for resale (section 188)

401 Meaning of “diligent inquiry”

- (1) For the purposes of section 188 (2) (b) of the Act, a *diligent inquiry* for the owner of land that a council intends to acquire by compulsory process for the purpose of resale is the taking of all the actions named and described in this clause.
- (2) **Searching of registers**, being the searching of:
 - (a) the Register kept under the *Real Property Act 1900*, and
 - (b) the General Register of Deeds kept under the *Conveyancing Act 1919*, and

Clause 401 Local Government (General) Regulation 2005

Part 13 Miscellaneous

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- (c) the National Native Title Register kept under the *Native Title Act 1993* of the Commonwealth,
to identify every person who has a legal or equitable estate or interest in the land, or an easement, right, charge, power or privilege over, or in connection with, the land.
- (3) **Fixing a notice to the land**, being the placing, on a board or other structure in a conspicuous place on the land, of a notice:
- (a) stating that the council intends to acquire the land specified in the notice by compulsory process for the purpose of resale, and
 - (b) inviting the owner of the land to contact the council at an address specified in the notice.
- (4) **Publishing a notice**, being the publishing, in a newspaper circulating in the area in which the land is situated and in a newspaper circulating generally in New South Wales, of a notice referred to in subclause (3).
- (5) **Giving notice to representatives of persons who may hold native title**, being the giving of notice in the following ways:
- (a) the giving, to the New South Wales Aboriginal Land Council and to the relevant Local Aboriginal Land Council, of a notice:
 - (i) stating that the council intends to acquire the land specified in the notice by compulsory process for the purpose of resale, and
 - (ii) inviting any person who considers that he or she may hold native title to the land to contact the council at an address specified in the notice,
 - (b) if a relevant procedure under the *Native Title Act 1993* of the Commonwealth applies—the giving of notice as required under that procedure,
 - (c) if a relevant procedure under that Act does not apply—the giving of notice (as set out in paragraph (a)) to any registered native title claimant (within the meaning of that Act) in relation to the land concerned by post or in such other manner to which the notified claimant agrees.
- (6) For the purposes of subclause (5), a **relevant procedure** is the procedure under Subdivision P of Division 3 of Part 2 of the *Native Title Act 1993* of the Commonwealth or the procedure under section 24MD (6B) of that Act, or the procedure prescribed by a registered indigenous land use agreement.
- (7) Despite subclause (1), if an action referred to in subclause (5) (b) or (c) is substantially the same as an action referred to in subclause (3), (4) or (5) (a), the action concerned need be taken only once.

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Clause 402

Miscellaneous

Part 13

Division 3 Surveys and polls relating to council amalgamations or boundary changes (section 218F)

402 List of electors

- (1) For the purposes of a postal survey or opinion poll under section 218F (3) of the Act, the Boundaries Commission or Director-General, as the case requires, is to prepare a list of electors of an area concerned, being a list of:
 - (a) resident electors, namely, the persons whose names are contained in the roll, as at a date determined by the Boundaries Commission or Director-General, required to be kept under section 298 of the Act as the residential roll in respect of the area, and
 - (b) other eligible electors, being:
 - (i) the persons whose names are contained in the rolls confirmed under sections 299 (non-residential owner roll) and 300 (roll of occupiers and ratepaying lessees) for the last election held for the area, or
 - (ii) if such rolls are not current (in the opinion of the Boundaries Commission or Director-General), the persons who, on a date determined by the Boundaries Commission or Director-General, are non-resident owners, occupiers or ratepaying lessees of rateable land in the area, and who have indicated in a manner approved by the Boundaries Commission or Director-General their desire to be included in the list prepared for the area under this clause.
- (2) The persons whose names are contained in a list prepared under this clause are the electors of the area concerned for the purposes only of the postal survey or opinion poll in respect of which the list is prepared.

Division 4 Payments to councillors (sections 252 and 254A)

403 Payment of expenses and provision of facilities

A policy under section 252 of the Act must not include any provision enabling a council:

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or
- (b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.

Clause 404 Local Government (General) Regulation 2005

Part 13 Miscellaneous

404 Circumstances in which councillors' annual fees may be reduced or not paid

For the purposes of section 254A of the Act, a prescribed circumstance for the non-payment or reduction of a councillor's annual fee is the circumstance where both of the following conditions are satisfied:

- (a) the payment of the annual fee adversely affects the councillor's entitlement to a pension, benefit or allowance under any legislation of the Commonwealth, a Territory or a State (including New South Wales),
- (b) the councillor agrees to the non-payment or reduction.

Division 5 Council staffing matters (sections 354A and 354E)

405 Exemption from Ministerial approval for certain termination payments to senior staff

- (1) The following kinds of payments to a senior staff member are exempted from section 354A of the Act:
 - (a) a termination payment that does not exceed the value of the senior staff member's total remuneration package over the 12 months preceding his or her termination of employment,
 - (b) a payment to which the senior staff member is entitled, on termination of employment, under any Act,
 - (c) a payment for untaken long service leave or untaken sick leave that does not exceed an amount to which a member of staff of a council, other than a senior staff member, would be entitled under any Act or award (within the meaning of section 27 of the *Industrial Relations Act 1996*).
- (2) For the purposes of subclause (1) (a), a senior staff member's total remuneration package includes the matters set out in section 332 (3) (a)–(d) of the Act.

406 Determinations relating to staff entitlements during proposal period not requiring Ministerial approval

A determination to which section 354E of the Act applies is not required to be approved by the Minister if it complies with any of the following requirements:

- (a) it is a determination that is authorised by an industrial instrument, or employment policy of the former council, made or approved before the proposal period,

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- (b) it is a determination in, or authorised by, an award, enterprise agreement or other industrial instrument made or approved by the Industrial Relations Commission or Australian Industrial Relations Commission,
 - (c) it is a determination that comprises the renewal of an employment contract entered into before the proposal period.

Division 6 Winding up of Cudgegong (Abattoir) County Council (section 400AA)

407 Modification of Parts 5.5–5.9 of the Corporations Act 2001 of the Commonwealth concerning winding up of Cudgegong (Abattoir) County Council

For the purposes of clause 1 (2) (g) of Schedule 9 to the Act, the following modifications of Parts 5.5–5.9 of the *Corporations Act 2001* of the Commonwealth are prescribed:

- (a) the definition of *recovery proceeding* in section 588E (1) is to be read as if paragraphs (e) and (f) were omitted,
- (b) section 588E (8) is to be read as if paragraphs (d) and (e) were omitted,
- (c) section 588FF is to be read as if “(but not a director)” were inserted after “a person” wherever occurring in section 588FF (1) (a), (b), (c) and (d),
- (d) Part 5.7B is to be read as if sections 588FGA and 588FGB were omitted,
- (e) Part 5.7B is to be read as if Divisions 3–7 were omitted,
- (f) section 590 is to be read as if “within 10 years next before the relevant day or at a time on or after that day” wherever occurring in section 590 (1) (c), (g) and (h) and (2) were omitted and “at any time on or after the relevant day” were inserted instead,
- (g) section 596A is to be read as if “, to the extent that they relate to its winding up,” were inserted after “affairs”,
- (h) section 596B (1) is to be read as if “, to the extent that they relate to its winding up,” were inserted after “affairs” where firstly occurring,
- (i) section 596B (1) (b) (i) is to be read as if “, to the extent that they relate to its winding up,” were inserted after “affairs of the corporation”,
- (j) section 596B (1) (b) (ii) is to be read as if “, to the extent that they relate to its winding up” were inserted after “affairs of the corporation”,

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Part 13 Miscellaneous

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- (k) section 596D is to be read as if “, to the extent that they relate to its winding up” were inserted after “affairs” wherever occurring in section 596D (1) (b) and (2) (b),
 - (l) section 597 (5B) is to be read as if “, to the extent that they relate to its winding up,” were inserted after “corporation”,
 - (m) section 597A is to be read as if “**(winding up)**” were inserted after “**affairs**” in the heading,
 - (n) section 598 (2) (a) is to be read as if “the winding up of” were inserted after “in relation to”.

Division 7 Certain exclusions

408 Arrangements excluded from provisions relating to public-private partnerships

- (1) For the purposes of section 400B (1) of the Act, the following arrangements are excluded from the operation of Part 6 of Chapter 12 of the Act:
 - (a) any arrangement between a council and a private person that is subject to the tendering requirements under section 55 of the Act,
 - (b) the contracting out of any council staff or business unit to provide services for a private person on a full cost recovery or for profit basis,
 - (c) any arrangement under which a council acts as trustee in connection with a bequest or donation of any property from a private person,
 - (d) any lease or licence over any Crown land or community land granted by a council to a private person,
 - (e) the sale by a council to a private person of any property (including operational land),
 - (f) any arrangement arising out of the operation of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*,
 - (g) any arrangement arising out of the imposition by a council of a requirement under section 306 of the *Water Management Act 2000* (as applying to the council by virtue of section 64 of the Act).
- (2) In this clause, *private person* has the same meaning as in section 400B (2) of the Act.

Local Government (General) Regulation 2005

Clause 409

Miscellaneous

Part 13

409 Transitional arrangement relating to public-private partnership proposals originating after 28 June 2002

- (1) If a proposal to carry out a project under a public-private partnership originated on or after 28 June 2002 but the relevant council did not, before the commencement of this clause, resolve to enter into a public-private partnership to carry out the project, the assessment of the project that is required to be provided by the council under section 400F of the Act is taken to have been prepared in accordance with the PPP guidelines. Accordingly, the general manager of the council is not, in any such case, required to certify that the project assessment has been prepared in accordance with the PPP guidelines.
- (2) For the purposes of subclause (1), a proposal to carry out a project under a public-private partnership is taken to have originated when the relevant council resolved to investigate the proposed project and to develop the proposal with other parties.

410 Entities excluded from restrictions under section 358 of the Act as to formation

- (1) For the purposes of section 358 (4) of the Act, an entity formed under any of the following arrangements is excluded from the definition of *entity* under that section:
 - (a) an arrangement between a council and a private person that is subject to the tendering requirements under section 55 of the Act,
 - (b) the contracting out of any council staff or business unit to provide services for a private person on a full cost recovery or for profit basis,
 - (c) any arrangement under which a council acts as trustee in connection with a bequest or donation of any property from a private person,
 - (d) the sale by a council to a private person of any property (including operational land),
 - (e) any arrangement arising out of the operation of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*,
 - (f) any arrangement arising out of the imposition by a council of a requirement under section 306 of the *Water Management Act 2000* (as applying to the council by virtue of section 64 of the Act).
- (2) In this clause, *private person* has the same meaning as in section 400B (2) of the Act.

Clause 411 Local Government (General) Regulation 2005

Part 13 Miscellaneous

Division 8 Bathing control notices (section 633)

411 Bathing control notices

- (1) Notices that are used by a council to control bathing must comply with the requirements of AS 2416.
- (2) A council that uses flags to designate an area for bathing must ensure that the flags are removed from the area whenever the area is closed for bathing.
- (3) In this clause:

AS 2416 means the Australian Standard entitled *Design and Application of Water Safety Signs* and numbered AS 2416—2002, as published by Standards Australia on 7 February 2002.

bathing includes surfing and any other similar form of recreation.

Division 9 Disclosure and misuse of information

412 Prescribed circumstances

For the purposes of section 664 (1B) (c) of the Act, any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the Act is a prescribed circumstance.

Division 10 Application of certain penalties

413 Parking and related offences for purposes of section 694

Any offence for which a penalty notice may for the time being be served under section 15 of the *Road Transport (General) Act 1999* or section 183 of the *Road Transport (General) Act 2005* by a Class 12 officer referred to in Schedule 1 to the *Road Transport (General) (Penalty Notice Offences) Regulation 2002* is declared to be a parking or related offence for the purposes of section 694 of the Act.

Note. The *Road Transport (General) (Penalty Notice Offences) Regulation 2002* defines the expression **Class 12 officer** and lists the offences for which a penalty notice may be served by such an officer. By operation of this clause, any offence in that list is a parking or related offence for the purposes of section 694 of the Act.

Local Government (General) Regulation 2005

Clause 414

Savings and transitional provisions

Part 14

Part 14 Savings and transitional provisions

414 General saving

Any act, matter or thing that, immediately before the repeal of any of the following Regulations, had effect under the Regulation concerned continues to have effect under this Regulation:

- (a) *Local Government (Approvals) Regulation 1999,*
- (b) *Local Government (Elections) Regulation 1998,*
- (c) *Local Government (Financial Management) Regulation 1999,*
- (d) *Local Government (General) Regulation 1999,*
- (e) *Local Government (Meetings) Regulation 1999,*
- (f) *Local Government (Orders) Regulation 1999,*
- (g) *Local Government (Rates and Charges) Regulation 1999,*
- (h) *Local Government (Savings and Transitional) Regulation 1993,*
- (i) *Local Government (Tendering) Regulation 1999,*
- (j) *Local Government (Water Services) Regulation 1999.*

415 Inspectors

A person who, immediately before the repeal of the *Local Government (Approvals) Regulation 1999*, was an inspector for the purposes of that Regulation is taken to be an inspector for the purposes of this Regulation.

416 Pending and current elections

If notice of an election or by-election was given under the *Local Government (Elections) Regulation 1998* before the repeal of that Regulation, the election or by-election concerned is to be conducted as if that Regulation, and not Part 11 of this Regulation, were in force.

Local Government (General) Regulation 2005

Schedule 1 Standards relating to approvals

Schedule 1 Standards relating to approvals

(Clauses 10, 12, 13 and 16)

Part 1 Management and use of places of public entertainment

1 Fire safety officers

- (1) If a place of public entertainment has a grid or means of flying scenery over the stage and an approved capacity of more than 2,000 persons or, if the council so directs, there must be on duty, at all times while the place of public entertainment is open to the public for a stage performance, such number of competent fire safety officers as the council may determine in respect of the place of public entertainment.
- (2) A fire safety officer:
 - (a) must wear a distinctive uniform identifying that person as such, and
 - (b) must ensure that fire fighting equipment is in the correct location and is in an operative condition, and
 - (c) must report to the owner of the premises, or occupier, any fire hazard or situation that the fire safety officer considers may be prejudicial to public safety.
- (3) Whenever the public is in attendance at the premises, a fire safety officer is not to be required to carry out duties other than those referred to in subclause (2).

2 Stage hands

- (1) There must be at least one suitably trained person in attendance in the stage area at all times during a stage performance for the purpose of operating, whenever necessary, the proscenium safety curtain, drencher system and smoke exhaust system.
- (2) Except where a fire safety officer is on duty in accordance with the requirements of clause 1 (1), the person referred to in subclause (1) must, in addition to the requirements of that subclause, perform the duties specified in clause 1 (2) (b) and (c).

Local Government (General) Regulation 2005

Standards relating to approvals

Schedule 1

3 Projection suites

- (1) When a film is being screened at a place of public entertainment, at least one person trained in the operation of the projectors being used and in the use of the fire fighting equipment provided in the room where they are installed (the *projection room*) must be in attendance at the place of public entertainment.
- (2) If the projection room is not fitted with automatic fire suppression equipment and a smoke detection system, in accordance with the *Building Code of Australia*, the person required by subclause (1) to be in attendance must actually be in the projection suite in which the projection room is located during the screening of a film.
- (3) No member of the public is to be present in the projection suite during the screening of a film.

4 Smoking and drinking

- (1) Persons must not smoke or consume liquor in the auditorium, projection suite, stage area or wings or in a plant room, store room or property room.
- (2) Subclause (1) does not apply to smoking by persons who are doing so as a necessary part of a performance being conducted on stage or in an auditorium.
Note. Section 7 of the *Smoke-free Environment Act 2000* provides that it is an offence to smoke in a smoke-free area (which includes the auditorium and stage of a theatre), but also provides that a person who performs in a theatre or other performance space does not commit an offence under that section by smoking during the performance if smoking is a necessary part of the performance.
- (3) Subclause (1) does not apply to the consumption of liquor at licensed premises within the meaning of the *Liquor Act 1982*.

5 Naked flames

- (1) A person must not:
 - (a) expose flame, or
 - (b) carry, or have in his or her possession, an explosive or a flammable liquid or gas,in a place of public entertainment.
- (2) Subclause (1) does not apply to:
 - (a) the striking of matches or the use of cigarette lighters in connection with smoking where smoking is permitted in accordance with clause 4, or
 - (b) the exposure of flame in connection with the preparation and serving of meals in approved areas, or

Local Government (General) Regulation 2005

Schedule 1 Standards relating to approvals

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- (c) the exposure of flame in connection with the use of a heater, or
 - (d) the carrying of flammable liquid or gas in a cigarette lighter.
- (3) The council may, subject to such conditions as it may determine, permit the use of:
- (a) exposed flame, or
 - (b) explosives, or
 - (c) flammable liquid or gas,
- by a performer or performers for the purpose of a performance being conducted.
- (4) If smoke, gas, other chemical or a similar substance is used for the purpose of a performance, it must be used in such a way as not to:
- (a) create a hazard, or
 - (b) cause alarm or discomfort to the audience.

6 Dangerous performances

- (1) Performances that involve danger to the public are not to be promoted or conducted.
- (2) In particular, a nitrate film must not be exhibited in a place of public entertainment.

7 Marking of aisles and cross-overs

If it is intended that the audience at a performance be seated on the floor, aisles and cross-overs are to be clearly defined on the floor.

8 Aisle lights to be energised

Aisle lights referred to in NSW Variation H 101.20.3 in Volume One of the *Building Code of Australia* must be energised when the public is in attendance and the main auditorium lighting is dimmed or extinguished.

9 Locks

Any key-operated fastening fitted to an exit door or gate used by the public as a main entrance must be arranged so that, whenever the public is in attendance, the tongue or bolt is locked in the retracted position to enable the door or gate to yield to pressure from within.

10 Rope barriers

A rope barrier may be used across or at the side of an aisle, but only if:

- (a) it is secured with spring clips that become unfastened when pressure is exerted on the rope, and

Local Government (General) Regulation 2005

Standards relating to approvals

Schedule 1

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- (b) it has a centre fastening only, and
 - (c) it does not trail on the floor when released.

11 Proscenium curtains

If a proscenium safety curtain is installed:

- (a) there must be no obstruction to the opening or closing of the safety curtain, and
- (b) the safety curtain must be operable at all times.

12 Council may require fire-safety information

The council may at any time require the owner or occupier of the building to furnish a certificate from a registered testing authority (within the meaning of the *Building Code of Australia*) or other approved testing authority, as to the early fire hazard or flammability properties of the finish of a wall, ceiling or floor, or of a curtain, blind or cinematograph screen.

13 Copy of approval

A copy of the approval for the place of public entertainment must be conspicuously displayed in the place of public entertainment.

14 Application of Schedule to temporary structures

- (1) This Schedule applies to temporary structures in the same way as it applies to places of public entertainment.
- (2) This Schedule does not apply to a class 1 or class 10 building.

Part 2 Standards for water supply, sewerage and stormwater drainage work

15 Compliance with the Plumbing and Drainage Code of Practice

Water supply work, sewerage work and stormwater drainage work must comply with the Plumbing and Drainage Code of Practice except where otherwise provided in the Act or this Regulation.

16 Premises to be connected to water supply by an independent house service pipe

- (1) Unless the council authorises otherwise, premises must not be connected to a property service pipe linked to the council's water supply system except by an independent house service pipe.

Local Government (General) Regulation 2005

Schedule 1 Standards relating to approvals

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- (2) An independent house service pipe connecting premises to the council's water supply system must have a stop-valve within the premises:
 - (a) at a place that is not more than 450 millimetres from the road alignment, or
 - (b) at some other place approved by the council.
 - (3) An independent house service pipe must be laid to each allotment of land that is separately occupied, unless alternative arrangements have been made with the council.
 - (4) If the council authorises the connection of 2 or more premises by means of a single house service pipe, there must (unless all the premises are occupied by one household or firm as a residence or place of business) be installed on each of those premises:
 - (a) a separate stop-valve that complies with subclause (2), and
 - (b) a separate water meter to measure the water supply to those premises.
 - (5) A house service pipe may be laid at a depth less than that specified in the Plumbing and Drainage Code of Practice if authorised in writing by the council.

17 Chemical dispensing units not to be connected to water supply system

- (1) A connection must not be made between the council's water supply system, or a pipe or fitting supplied with water from that system, and any device or fitting designed to be used to dispense a chemical compound capable of contaminating the water supply, unless the device or fitting is of a type approved by the Director-General of the Department of Energy, Utilities and Sustainability or complies with the Manual of Authorization Procedures.
- (2) The council's water supply system, or a pipe or fitting supplied with water from that system, must not be directly connected to a device or fitting designed to be used to dispense a chemical compound capable of contaminating the water supply, unless that device or fitting is of a type approved for such connection by the Director-General of the Department of Energy, Utilities and Sustainability or complies with the Manual of Authorization Procedures.

18 Water meters

- (1) Water supply services must be provided through a water meter unless alternative arrangements have been approved by the council.

Local Government (General) Regulation 2005

Standards relating to approvals

Schedule 1

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- (2) A water meter (other than a water meter hired from or provided by the council) to be installed on premises connected or to be connected to a water supply system must:
 - (a) be of a size and class approved by the council, and
 - (b) be fitted with stop-valves and such other fittings as may be specified by the council.
 - (3) A water meter through which water supply services are provided to premises must be accessible to the council at any time.
 - (4) If required by the council:
 - (a) such a water meter must be protected by being enclosed in a box constructed of metal, wood or other strong durable material, and
 - (b) such a box must be fitted with a lock and key of a type approved by the council.

19 Joint sewerage services prohibited

- (1) Any house drain on premises connected to a council's sewerage system must be kept separate from that of all other premises.
- (2) The only fittings and fixtures permitted to discharge into such a house drain are those located on the premises.
- (3) A house drain on premises that are to be connected to a council's sewerage system must be laid within the boundary of the premises until it:
 - (a) reaches that system or the boundary nearest that system, or
 - (b) emerges into a public place.

20 Requirements as to water closet suites

- (1) A water closet suite must not be installed unless it complies with subclause (2) or is a type approved under subclause (3).
- (2) A water closet suite must:
 - (a) have a cistern with a maximum flushing volume of at least 6 litres, and
 - (b) if the suite is to be installed in a class 1 or class 2 building:
 - (i) the cistern must be of the dual flushing kind, and
 - (ii) the suite must satisfy the requirements of the Manual of Authorization Procedures.

However, a water closet suite also complies with this subclause if it is to be connected to a soil stack and has a cistern with a flushing volume of at least 4 litres.

Local Government (General) Regulation 2005

Schedule 1 Standards relating to approvals

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- (3) The Director-General of the Department of Energy, Utilities and Sustainability may approve in writing a type of water closet suite that:
- (a) has a different maximum flushing capacity from that referred to in subclause (2) (a), or
 - (b) in the case of a suite that is to be installed in a class 1 or class 2 building, does not satisfy the requirements of subclause (2) (b) (ii).

Note. A *soil stack* is a vertical sewer pipe located in a multi-storey building.

21 Materials for use in water supply, sewerage or stormwater drainage work

- (1) Materials used in carrying out water supply, sewerage or stormwater drainage work referred to in item 1, 4 or 5 of Part B of the Table to section 68 of the Act must be of a kind authorised for the purposes of the work:
- (a) by the Director-General of the Department of Energy, Utilities and Sustainability, or
 - (b) under the Manual of Authorization Procedures.
- (2) If an inconsistency arises under subclause (1), the authorisation of the Director-General of the Department of Energy, Utilities and Sustainability prevails.

Local Government (General) Regulation 2005

Standards enforceable by orders

Schedule 2

Schedule 2 Standards enforceable by orders

(Clauses 83–86, 92 and 94)

Part 1 Standards for places of shared accommodation

1 Maximum number of boarders and lodgers

- (1) The number of occupants (not including children under the age of 5 years) must not exceed the maximum number of persons determined by the council to be accommodated in each bedroom or dormitory and in the whole premises.
- (2) The maximum number of persons accommodated in a bedroom, or in a cubicle of a dormitory, must not exceed the number determined by allowing a minimum floor area within the bedroom or cubicle in accordance with the relevant provisions under the *Public Health Act 1991* for each person.

Note. On the commencement of this Regulation, the relevant provision was clause 22 of the *Public Health (General) Regulation 2002*.

2 Notices

- (1) A sign indicating the permissible maximum length of time during which a person may board or lodge in the premises must be conspicuously displayed to public view outside the premises.
- (2) A schedule showing the numeral designating each bedroom and dormitory and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
- (3) Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.

3 Light and ventilation

- (1) Adequate light and ventilation must be maintained in the premises.
- (2) All partitions forming cubicles in a dormitory must be adequately constructed and provide adequate ventilation.

4 Kitchen facilities

- (1) Any kitchen facilities and utensils for the storage or preparation of food must be kept in a clean and healthy condition, in good repair, free from foul odours and, as far as practicable, free from dust, flies, insects and vermin.

Local Government (General) Regulation 2005

Schedule 2 Standards enforceable by orders

- (2) The floor of any kitchen must have an approved impervious surface.

5 General cleanliness

- (1) All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
- (2) Pans, receptacles or other waste storage devices must be kept covered and all waste must be deposited in appropriate pans, receptacles or other waste storage devices.

6 Furniture and fittings

Appropriate furniture and fittings must be provided and maintained in good repair.

7 Long term residences

If the place is one in which persons may board or lodge for 7 days or longer, an adequate number of beds (each provided with a mattress and pillow and an adequate supply of clean blankets or equivalent bed clothing), adequate storage space and blinds, curtains or similar devices to screen bedroom and dormitory windows for privacy must be provided for the occupants.

Part 2 Standards for hairdressers shops**8 Structural requirements**

- (1) The premises must be structurally suitable for the carrying out of hairdressing.
- (2) Without limiting the generality of subclause (1), premises are structurally unsuitable for the carrying out of hairdressing if any wash basin is situated against any wall and that wall (from floor level to a height of 450 millimetres above the top of the wash basin and from the centre of the wash basin to a distance of 150 millimetres beyond each side of the wash basin) is not constructed of, or covered with, material that is durable, smooth, impervious to moisture and capable of being easily cleaned.

9 Hygiene

- (1) The premises must be clean and in good repair.
- (2) The premises must be provided with facilities that are adequate for the purpose of keeping hairdressing appliances and utensils clean.

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Standards enforceable by orders

Schedule 2

10 Hairdressing facilities

- (1) The premises must be provided with washing, drainage, ventilation and lighting facilities that are adequate for the carrying out of hairdressing.
- (2) The premises must be provided with facilities that are adequate for the purpose of storing hairdressing appliances and utensils in a hygienic manner.
- (3) The premises must be provided with floor coverings, shelves, fittings and furniture that are suitable for the carrying out of hairdressing.
- (4) Without limiting the generality of subclauses (1) and (3):
 - (a) premises are not provided with washing facilities that are adequate for the carrying out of hairdressing unless those facilities include wash basins fitted with common spouts for the supply of hot and cold running water, and
 - (b) shelves, fittings and furniture are unsuitable for the carrying out of hairdressing unless they are constructed of, or covered with, material that is durable, smooth, impervious to moisture and capable of being easily cleaned.

Part 3 Standards for beauty salons

11 Structural requirements

- (1) The premises must be structurally suitable for the provision of beauty treatment.
- (2) Without limiting the generality of subclause (1), premises are structurally unsuitable for the provision of beauty treatment if any wash basin is situated against any wall and that wall (from floor level to a height of 450 millimetres above the top of the wash basin and from the centre of the wash basin to a distance of 150 millimetres beyond each side of the wash basin) is not constructed of, or covered with, material that is durable, smooth, impervious to moisture and capable of being easily cleaned.

12 Hygiene

- (1) The premises must be clean and in good repair.
- (2) The premises must be provided with facilities that are adequate for the purpose of keeping beauty treatment appliances and utensils clean.

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Schedule 2 Standards enforceable by orders

13 Beauty facilities

- (1) The premises must be provided with washing, drainage, ventilation and lighting facilities that are adequate for the provision of beauty treatment.
- (2) The premises must be provided with facilities that are adequate for the purpose of storing beauty treatment appliances and utensils in a hygienic manner.
- (3) The premises must be provided with floor coverings, shelves, fittings and furniture that are suitable for the provision of beauty treatment.
- (4) Without limiting the generality of subclauses (1) and (3):
 - (a) premises are not provided with washing facilities that are adequate for the provision of beauty treatment unless those facilities include wash basins fitted with common spouts for the supply of hot and cold running water, and
 - (b) shelves, fittings and furniture are unsuitable for the provision of beauty treatment unless they are constructed of, or covered with, material that is durable, smooth, impervious to moisture and capable of being easily cleaned.

Part 4 Standards for mortuaries**14 Water supply and sewerage**

- (1) The mortuary must be connected to a permanent water supply in compliance with the requirements of the local water supply authority.
- (2) A backflow prevention device complying with the requirements of Part 6 of this Regulation and specified by the local water supply authority must be provided between the water supply and all equipment, appliances, fittings and areas in the mortuary.
- (3) The mortuary must be connected to a water carriage sewerage system approved by the local water supply authority.

15 Closet and ablution facilities

- (1) The mortuary must be provided with:
 - (a) separate water closets for the persons of each sex at the rate of 1 water closet for every 20 persons or part of 20 persons of each sex working in or about the mortuary at any one time, and

Local Government (General) Regulation 2005

Standards enforceable by orders

Schedule 2

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- (b) shower facilities approved by the council, with an adequate supply of hot and cold water, for use by persons working in or about the mortuary, and
 - (c) a hand wash basin, with an adequate supply of hot and cold water, adjacent to each water closet in the mortuary.
- (2) Water closet and shower facilities must be provided with an air lock approved by the council between those facilities and any other part of the premises.

16 Construction

- (1) The mortuary must be physically separated from all public areas of the building in which it is situated but may be integral with the construction of the remainder of the building.
- (2) A body preparation room, capable of being sealed off from the remainder of the premises, must be provided in the mortuary.
- (3) The body preparation room must have:
 - (a) a floor area of not less than 9.3 square metres, and
 - (b) a ceiling height of not less than 2.4 metres measured above the finished floor level, and
 - (c) the floor constructed of impervious material with a smooth unbroken surface and uniformly graded to discharge liquids to a floor drain, and
 - (d) a floor drain discharging through a removable screen so as to prevent the discharge of any solid material to the sewerage system, and
 - (e) all walls and partitions constructed of impervious materials with a smooth unbroken finish capable of being readily cleansed, and
 - (f) all joints between the floor, walls, partitions, ceiling, ventilation grilles, fittings, pipework, windows and light fittings sealed with impervious material so as to facilitate cleansing, and
 - (g) all joints between the floor and walls or partitions provided with coving of not less than 75 millimetres radius so as to facilitate cleansing, and
 - (h) all external windows fitted with flyproof screens, and
 - (i) all external doors fitted with self-closing fly screen doors or other suitable apparatus to prevent the entry of flies.

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Schedule 2 Standards enforceable by orders

- (4) In any mortuary constructed after 1 July 1993, all walls and partitions of the body preparation room must be of brick or masonry construction finished in compliance with subclause (3) (e).

Note. The following standards also apply under other legislation as at the commencement of this Regulation:

Body preparation room—clause 6 of the *Public Health (Disposal of Bodies) Regulation 2002*.

Waste disposal—clause 7 of the *Public Health (Disposal of Bodies) Regulation 2002*.

Vehicles—clause 8 of the *Public Health (Disposal of Bodies) Regulation 2002*.

Part 5 Standards for keeping birds or animals

Division 1 Keeping of swine

17 Swine not to pollute

- (1) Swine must not be kept in such a place or manner as to pollute any water supplied for use (or used, or likely to be used):
- (a) by a person for drinking or domestic purposes, or
 - (b) in a dairy.
- (2) Swine's dung must not be deposited in such a place or manner as to pollute any water referred to in subclause (1).

18 Swine not to be kept near certain premises

- (1) Without limiting clause 1, swine must not be kept (and swine's dung must not be deposited) within 60 metres (or such greater distance as the council may determine in a particular case) of a dwelling, shop, office, factory, church or other place of public worship, workshop, school or public place in a city, town, village or other urban part of an area.
- (2) A greater distance determined under this clause applies to a person only if the council has served an order under section 124 of the Act to that effect on the person.

Division 2 Keeping of poultry

19 Poultry not to be nuisance or health risk

- (1) Poultry must not be kept under such conditions as to create a nuisance or to be dangerous or injurious to health.
- (2) Poultry yards must at all times be kept clean and free from offensive odours.

Local Government (General) Regulation 2005

Standards enforceable by orders

Schedule 2

20 Poultry not to be kept near certain premises

- (1) Fowls (that is, birds of the species *Gallus gallus*) or guinea fowls must not be kept within 4.5 metres (or such greater distance as the council may determine in a particular case) of a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food.
- (2) Poultry (other than fowls referred to in subclause (1)) must not be kept within 30 metres of any building referred to in subclause (1).
- (3) The floors of poultry houses must be paved with concrete or mineral asphalt underneath the roosts or perches. However, this subclause does not apply to poultry houses:
 - (a) that are not within 15.2 metres of a dwelling, public hall or school, or
 - (b) that are situated on clean sand.
- (4) Poultry yards must be so enclosed as to prevent the escape of poultry.
- (5) The standards in this clause apply to a person only if the council has served an order under section 124 of the Act to that effect on the person.

Division 3 Keeping of horses and cattle

21 Horses and cattle not to be kept near certain premises

- (1) Horses and cattle must not be kept within 9 metres (or such greater distance as the council may determine in a particular case) of a dwelling, school shop, office, factory, workshop, church or other place of public worship, public hall or premises used for the manufacture, preparation or storage of food.
- (2) The floors of stables must be paved with concrete or mineral asphalt or other equally impervious material, and must be properly graded to drain.
- (3) Horse yards and cattle yards must be so enclosed as to prevent the escape of horses and cattle.
- (4) The standards in this clause apply to a person only if the council has served an order under section 124 of the Act to that effect on the person.

Part 6 Standards for disposal of certain waste

22 Disposal of human waste

- (1) Human waste brought to a depot is to be disposed of by emptying the contents of the human waste pans directly into a trench and by covering the human waste with at least 250 mm of earth.

Local Government (General) Regulation 2005

Schedule 2 Standards enforceable by orders

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- (2) Human waste is not to be left exposed in the trench, and the trench is not to be used again for the disposal of human waste until the contents of the trench have become assimilated with the soil.
 - (3) A trench:
 - (a) must be of adequate length, and
 - (b) must be not more than 600 mm wide, and
 - (c) must be not more than 600 mm or less than 250 mm deep (or of a depth approved by the Director-General of the Department of Health).
 - (4) If the Director-General of the Department of Health has given (and not withdrawn) written approval of a method of disposal of human waste different from the method specified in subclause (1), that method may be used.
 - (5) Except as otherwise provided in this Schedule, human waste is not to be spilt, emptied or deposited elsewhere than at a depot.

23 Emptying of cesspits and chemical closets

- (1) Cesspits and chemical closets are to be emptied at least once every 6 months.
- (2) However, if the council considers it necessary for cesspits and chemical closets to be emptied more often, they are to be emptied as often as the council requires.
- (3) The contents of cesspits are to be removed to a depot in a watertight covered vehicle or in airtight covered pans.
- (4) The vehicle or pans are to be emptied at the depot and must be thoroughly cleansed before they are used again.
- (5) Cesspits are not to be emptied between 5 am and 10 pm.

24 Accumulation of sludge

- (1) The receptacle of a septic closet is to be emptied and cleansed when the sludge accumulates to a height of 100 mm below the bottom inlet opening of the square junction outlet pipe.
- (2) However, if the council considers it necessary for receptacles to be emptied and cleansed more often, they are to be emptied and cleansed as often as the council requires.

25 Removal and cleaning of pans

- (1) The pan of every closet and urinal (with its contents) is to be removed and replaced with a cleansed, empty pan at least once every 7 days.

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Standards enforceable by orders

Schedule 2

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- (2) However, if the council considers it necessary for pans to be removed and replaced more often, they are to be removed and replaced as often as the council requires.
 - (3) On removal, the pan is to be covered with an airtight lid, taken in a closed vehicle (or other vehicle approved by the Director-General of the Department of Health) to a depot and emptied.
 - (4) Before it is removed from the depot or supplied for use on any premises, the pan is to be thoroughly washed and cleansed with hot water and subjected to steam under pressure in an apparatus approved by the Director-General of the Department of Health.
 - (5) Alternatively, the pan is to be thoroughly washed and cleansed with hot water in an automatic washing and tarring machine in which the pan is immersed in a bath of molten tar at a minimum temperature of 127°C for at least 2½ minutes.
 - (6) If airtight pans of a pattern or description that has been approved by the Director-General of the Department of Health are used, the council may authorise the removal of human waste to be carried out at any hour of the day, but otherwise removal is not to take place between 5 am and 10 pm.
 - (7) This clause does not apply where the sanction of the Director-General of the Department of Health and the consent of the council have been given to the removal of human waste by the occupier of the premises on which it is stored.

26 Removal and cleaning of pans by owner or occupier

- (1) An owner or occupier is to empty and cleanse:
 - (a) the pan of every closet on his or her premises at least once every 7 days, and
 - (b) the receptacle of a chemical closet when directed to do so by the council, and
 - (c) the receptacle of a septic closet when the sludge accumulates to a height of 100 mm below the bottom inlet opening of the square junction outlet pipe (or more often, if the council so requires).
- (2) The owner or occupier is to dispose of the human waste as provided by clause 22.

27 Vehicle, utensils and apparatus to be kept clean

- (1) Vehicles used for conveying pans, and receptacles, utensils and apparatus used in the collection or disposal of human waste, are to be thoroughly washed on arrival at a depot after the day's use and are to be maintained in a clean condition.

Local Government (General) Regulation 2005

Schedule 2 Standards enforceable by orders

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- (2) The steaming and washing appliances are to be properly set up in a suitable structure with a weatherproof roof and enclosed on at least 2 sides. The structure is to be kept clean.
 - (3) The structure is to have a cement concrete floor rendered to a smooth surface and evenly graded to a drain.
 - (4) Drainage from washing and steaming appliances is to be disposed of in shallow trenches of the kind used for the disposal of human waste.

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Form of return—disclosure of interest

Schedule 3

Schedule 3 Form of return—disclosure of interest

(Clauses 180–182 and 192)

Local Government Act 1993

Disclosures by Councillors and Designated Persons Return

- 1 The pecuniary interests and other matters to be disclosed in this return are prescribed by Part 8 of this Regulation.
- 2 If this return is the first return required to be submitted by you after attaining the position of councillor or designated person, do not complete Parts C, D and H of the return. All other Parts of the return should be completed with appropriate information as at the return date, that is, the date on which you attained that position.

If this return is not the first return required to be submitted by you after attaining that position, all Parts of the return should be completed with appropriate information for the relevant return period since the last return, that is, the period from the return date of the last return to 30 June in this year or the period from the end of the last return period to 30 June in this year (whichever is appropriate).
- 3 The particulars required to complete this form are to be written in block letters or typed.
- 4 If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by you.
- 5 If there are no pecuniary interests or other matters of the kind required to be disclosed under a particular main heading in this form, the word “NIL” is to be placed in an appropriate space under that heading.
- 6 “*” means delete whichever is inapplicable.

Important information

This information is being collected for the purpose of compliance with section 449 of the *Local Government Act 1993*. You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred to the Local Government Pecuniary Interest Tribunal. The information collected on this form will be kept by the general manager at the council chambers in a register of returns. Everyone is entitled to inspect the register of returns free of charge. You may correct or update the information contained in the register of returns by submitting a fresh return at any time.

Local Government (General) Regulation 2005

Schedule 3 Form of return—disclosure of interest

Disclosure of pecuniary interests and other matters

by [full name of councillor or designated person]

*as at [return date]

*in respect of the period from [date] to [date]

[councillor's or designated person's signature]

[date]

A. Real Property

| Address of each parcel of real property in which I had an interest *at the return date/*at any time during the return period | Nature of interest |
|--|--------------------|
| | |

B. Sources of income

| | |
|---|---|
| 1 | *Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June: *Sources of income I received from an occupation at any time during the return period: |
|---|---|

| Description of occupation | Name and address of employer or description of office held (if applicable) | Name under which partnership conducted (if applicable) |
|---------------------------|--|--|
| | | |

| | |
|---|---|
| 2 | *Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June: *Sources of income I received from a trust during the return period: |
|---|---|

| Name and address of settlor | Name and address of trustee |
|-----------------------------|-----------------------------|
| | |

| | |
|---|---|
| 3 | *Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June: *Sources of other income I received at any time during the return period: [Include description sufficient to identify the person from whom, or the circumstances in which, that income was received] |
|---|---|

Local Government (General) Regulation 2005

Form of return—disclosure of interest

Schedule 3

C. Gifts

| Description of each gift I received at any time during the return period | Name and address of donor |
|--|---------------------------|
| | |

D. Contributions to travel

| Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time during the return period | Dates on which travel was undertaken | Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken |
|--|--------------------------------------|---|
| | | |

E. Interests and positions in corporations

| Name and address of each corporation in which I had an interest or held a position *at the return date/*at any time during the return period | Nature of interest (if any) | Description of position (if any) | Description of principal objects (if any) of corporation (except in case of listed company) |
|--|-----------------------------|----------------------------------|---|
| | | | |

F. Positions in trade unions and professional or business associations

| Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) *at the return date/*at any time during the return period | Description of position |
|--|-------------------------|
| | |

G. Debts

| Name and address of each person to whom I was liable to pay any debt *at the return date/*at any time during the return period |
|--|
| |

H. Dispositions of property

| 1 Particulars of each disposition of real property by me at any time during the return period as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time |
|--|
| |

Local Government (General) Regulation 2005

Schedule 3 Form of return—disclosure of interest

2 Particulars of each disposition of property to a person by any other person under arrangements made by me, being dispositions made at any time during the return period, as a result of which I obtained, either wholly or in part, the use and benefit of the property

I. Discretionary disclosures

Local Government (General) Regulation 2005

Counting of votes under optional preferential system

Schedule 4

Schedule 4 Counting of votes under optional preferential system

(Clause 351)

1 General

This Schedule sets out the method of counting votes according to the optional preferential system. The counting is to be carried out under the supervision of the returning officer.

2 Definitions

In this Schedule:

absolute majority of votes means a greater number than one-half of the whole 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 means a ballot-paper on which there is no indication of a next preference for a continuing candidate.

next preference means the first of the subsequent preferences marked on a ballot-paper that is not given to an elected or 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 that makes the ballot-paper informal), only those preferences preceding the repetition or omission can be taken into account.

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

3 One candidate to be elected

If only one candidate is to be elected, the votes are to be counted and the result of the election ascertained in accordance with the following procedures:

- (a) the unrejected ballot-papers are arranged under the names of the respective 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 on such ballot-papers are then counted,
- (c) the candidate who has received the largest number of first preference votes is elected if that number constitutes an absolute majority of votes,

Local Government (General) Regulation 2005

Schedule 4 Counting of votes under optional preferential system

-
- (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 him or her is counted to the candidate next in the order of the voter's preference,
 - (f) if a candidate then has an absolute majority of votes, he or she is 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 his or her unexhausted ballot-papers to the continuing candidate next in the order of the voter'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 elected.

4 Two candidates to be elected

If 2 candidates are to be elected, the votes are to be counted and the result of the election ascertained in accordance with the following procedures:

- (a) one of the candidates is elected in accordance with clause 3 of this Schedule,
- (b) all the unrejected ballot-papers are rearranged under the names of the respective candidates in accordance with the first preferences marked on the ballot-papers, except that each ballot-paper on which a first preference for the elected candidate is indicated is placed in the parcel of the candidate next in the order of the voter's preference,
- (c) the number of ballot-papers in the parcel of each candidate is counted and the total number of votes so counted to each candidate is ascertained,
- (d) if a candidate then has an absolute majority of votes he or she is elected. If not, the count proceeds according to clause 3 (d), (e) and (f) of this Schedule, until one candidate has received an absolute majority of votes,
- (e) clause 3 (d) and (e) of this Schedule is to be read for the purposes of this clause as if a reference in those paragraphs to first preference votes were a reference to all the votes counted to a candidate under this clause,
- (f) the candidate who has received an absolute majority of votes is elected.

Local Government (General) Regulation 2005

Counting of votes under optional preferential system

Schedule 4

5 Exhausted ballot-papers

In the process of counting under clause 3 or 4 of this Schedule, exhausted ballot-papers are set aside as finally dealt with and are not taken into account in the election of a candidate under the appropriate clause.

6 Equality

- (1) If, on any count at which the candidate with the fewest number of votes has to be excluded, 2 or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being 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 an equal number 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 an equal number 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.

7 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 voter's preference is not repeated if there is only one continuing candidate. Instead, that continuing candidate is elected.

Local Government (General) Regulation 2005
Schedule 5 Counting of votes under proportional system

Schedule 5 Counting of votes under proportional system

(Clause 351)

1 General

This Schedule sets out the method of counting votes according to the proportional system. The counting is to be carried out under the supervision of the returning officer.

2 Definitions

In this Schedule:

continuing candidate means at any given time a candidate not already elected or not already excluded from the poll.

exhausted ballot-paper means a ballot-paper on which there is no indication of a next preference for a continuing candidate.

fraction includes a decimal fraction.

next preference means the first of the subsequent preferences marked on a ballot-paper that is not given to an elected or 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 that makes the ballot-paper informal), only those preferences preceding the repetition or omission can be taken into account.

quota means the number of votes sufficient to elect a candidate.

surplus, at any given time, means:

- (a) except as provided in paragraph (b)—the number of votes which a candidate has obtained at that time in excess of the quota, or
- (b) if the number of exhausted ballot-papers counted to a candidate at that time is greater than the quota—the number of votes which the candidate has obtained at that time in excess of the number of those exhausted ballot-papers.

3 Parcels of first preferences

The ballot-papers are divided into parcels according to the names of the candidates for whom the first preferences on the ballot-papers are recorded.

4 Quota

The aggregate number of first preferences is divided by one more than the number of candidates to be elected. The quotient (disregarding any remainder), increased by one, becomes the quota.

Local Government (General) Regulation 2005

Counting of votes under proportional system

Schedule 5

5 Election on first preferences

- (1) A candidate who has, upon the first preferences being counted, a number of first preferences equal to or greater than the quota is elected.
- (2) If the number of first preferences obtained by the candidate is equal to the quota, all the ballot-papers on which first preferences are recorded for that candidate are set aside as finally dealt with.

6 Surplus on first count

- (1) If the number of first preferences obtained by any candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of voters' preferences, in accordance with the following directions:
 - (a) the ballot-papers on which first preferences are recorded for the elected candidate are re-examined, and the number of second preferences, or (in accordance with clause 12 of this Schedule) third or next consecutive preferences, recorded on them for each continuing candidate and the number of exhausted ballot-papers is counted,
 - (b) the surplus is divided by the total number of first preferences recorded for such elected candidate (excluding any exhausted ballot-papers). The transfer value is equal to the resulting fraction or the first 4 digits of the resulting decimal fraction or (if the fraction exceeds 1) to 1,
 - (c) the number of second or other preferences, ascertained in paragraph (a) as being recorded for each continuing candidate, is multiplied by the transfer value,
 - (d) the resulting number for each continuing candidate is added to the number of votes obtained by the candidate on the counting of first preferences,
 - (e) however, if as a result of the multiplication referred to in paragraph (c), any fraction results, so many of those fractions (taken in the order of their magnitude and beginning with the largest) as are necessary to ensure that the number of votes transferred equals the number of the elected candidate's surplus votes are treated as equal to 1, and the remaining fractions are ignored,
 - (f) if, as a result of the multiplication referred to in paragraph (c), 2 or more fractions are equal and one of them is to be treated as equal to 1, the fraction arising from the largest number of second or other preferences referred to in paragraph (a) is treated as the largest, and if the numbers of those preferences are equal, the fraction credited to the candidate with the highest number of

Local Government (General) Regulation 2005

Schedule 5 Counting of votes under proportional system

votes at the last count or transfer at which the candidates with the equal number of preferences had an unequal number of votes is treated as the largest, and if those candidates have had an equal number of votes at all preceding counts and transfers, the returning officer decides by lot which fraction is taken to be the largest,

- (g) from the ballot-papers on which a second or other preference is recorded for any continuing candidate, a number of ballot-papers equal to the number of votes directed by paragraph (d) to be credited to the candidate are selected at random, and these are to be placed in a separate parcel and transferred to the candidate,
 - (h) all ballot-papers of the elected candidate not transferred under paragraph (g) (including any exhausted ballot-papers) are set aside as finally dealt with, being the ballot-papers by which the candidate is elected,
 - (i) a transfer of votes under this clause is not made unless the surplus of the elected candidate, together with any other surpluses not transferred, exceeds the difference in numbers between the votes of the 2 continuing candidates lowest on the poll.
- (2) However, this clause is subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause, no further transfer under this clause can be made.

7 Surplus on transfer

- (1) If by a transfer of a surplus on the count of first preferences or of a surplus under this clause the number of votes obtained by a candidate equals or exceeds the quota, the candidate is elected.
- (2) In that case, despite the fact that the candidate has reached the quota, the transfer is to be completed, and all the votes to which the candidate is entitled from the transfer are to be transferred to the candidate.
- (3) If by a transfer the number of votes obtained by a candidate equals the quota, the whole of the ballot-papers on which those votes are recorded are set aside as finally dealt with, being the ballot-papers by which the candidate is elected.
- (4) If by a transfer the number of votes obtained by a candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of the voters' respective preferences in the following manner:
 - (a) the ballot-papers transferred to the elected candidate in the last transfer are re-examined, and the number of next consecutive preferences recorded for each continuing candidate on the papers and the number of exhausted ballot-papers are counted,

Local Government (General) Regulation 2005

Counting of votes under proportional system

Schedule 5

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- (b) the surplus is divided by the total number of ballot-papers transferred to the elected candidate in the last transfer (excluding any exhausted ballot-papers). The transfer value is equal to the resulting fraction or the first 4 digits of the resulting decimal fraction or (if the fraction exceeds 1) to 1,
 - (c) the surplus is transferred and the papers dealt with in a manner similar to that prescribed by clause 6 of this Schedule for the transfer of a surplus arising at the first count,
 - (d) a transfer of votes under this subclause is not made unless the surplus of the elected candidate, together with any other surpluses not transferred, exceeds the difference in numbers between the votes of the 2 continuing candidates lowest on the poll.
- (5) However, this clause is subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause, no further transfer under this clause can be made.

8 Transfer of surpluses

- (1) If, on the counting of the first preferences or on any transfer, more than one candidate has a surplus, the largest of the surpluses is transferred, then the next largest, and so on.
- (2) However, if there is an untransferred surplus obtained at a previous count or transfer, that surplus is transferred before those caused by subsequent transfers.
- (3) If there are equal surpluses at the first count, the returning officer decides by lot which surplus is transferred first.
- (4) If there are equal surpluses at a later count or at a transfer, the surplus of the candidate who was the highest on the poll at the count or transfer at which the tied candidates last had an unequal number of votes is the first to be transferred. If those candidates have had an equal number of votes at all preceding counts or transfers, the returning officer decides by lot which candidate's surplus is the first to be transferred.

9 Exclusion of lowest candidates

- (1) If, after the first preferences have been counted and transfers of surpluses have been made, fewer than the number of candidates required to be elected have obtained the quota, the candidate lowest on the poll is excluded.
- (2) All the unexhausted votes obtained by that candidate are transferred in one transfer to the continuing candidates who, on the ballot-papers on which such votes are recorded, are next in the order of the voters' respective preferences.

Local Government (General) Regulation 2005

Schedule 5 Counting of votes under proportional system

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- (3) Any exhausted ballot-papers are set aside as finally dealt with.
 - (4) The same process of exclusion and transfer is repeated until all the candidates, except the number required to be elected, have been excluded. At that point, the continuing candidates who have not already been elected are elected.
 - (5) Whenever it becomes necessary to exclude a candidate and two or more candidates have the same number of votes and are lowest on the poll, the one who was lowest on the poll at the last count or transfer at which they had an unequal number of votes is first excluded.
 - (6) If those candidates have had equal numbers of votes at all preceding counts or transfers, or there has been no preceding count, the returning officer decides by lot which candidate is first excluded.
 - (7) This clause is subject to clause 11 of this Schedule, and if at any time there is one remaining vacancy which can be filled under that clause, no further exclusion under this clause can be made.

10 Effect of reaching quota while transfers are proceeding

- (1) If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate equals or exceeds the quota, the candidate is elected.
- (2) In that case, despite the fact that the candidate has reached the quota, the transfer is to be completed, and all the votes to which the candidate is entitled from the transfer are to be transferred to the candidate.
- (3) If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate equals the quota, the whole of the ballot-papers on which those votes are recorded are set aside as finally dealt with, being the ballot-papers by which the candidate is elected.
- (4) If by a transfer under clause 9 of this Schedule, the number of votes obtained by a candidate exceeds the quota, the surplus is transferred to the continuing candidates next in the order of the voters' respective preferences in the manner set out in clause 7 (4) of this Schedule.

11 Election without reaching quota

- (1) When the number of continuing candidates is reduced to the number of vacancies remaining unfilled the continuing candidates are elected, even if they have not reached the quota.
- (2) When only one vacancy remains unfilled and the votes of one continuing candidate exceed the total of all the votes of the other continuing candidates, together with any surplus not transferred, that candidate is elected.

Local Government (General) Regulation 2005

Counting of votes under proportional system

Schedule 5

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- (3) When more than one vacancy remains unfilled and the votes of the candidate who (if all the vacancies were filled by the successive election of the continuing candidates with the largest number of votes) would be the last to be elected exceed the total of any surplus not transferred plus the votes of all the continuing candidates with fewer votes than that candidate, that candidate and all the other continuing candidates who do not have fewer votes than that candidate are elected.
 - (4) When only one vacancy remains unfilled, and there are only 2 continuing candidates, and those 2 candidates each have the same number of votes, and no surplus votes remain capable of transfer, one candidate is excluded in accordance with clause 9 (5) and (6) of this Schedule and the other is elected.

12 Determining order of preference

In determining which candidate is next in the order of the voter's preference, any candidates who have been declared elected or who have been excluded are not considered, and the order of the voter's preference is determined as if the names of those candidates had not been on the ballot-paper.

13 Deciding by lot

- (1) For the purposes of excluding a candidate by lot under clause 9 or 11 of this Schedule, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is excluded.
- (2) For the purpose of deciding by lot which candidate's surplus is first to be transferred under clause 8 of this Schedule, the names of the candidates who have equal surpluses are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed, one of the slips is drawn at random by the returning officer and the candidate whose name is on the drawn slip is the one whose surplus is the first to be transferred.
- (3) For the purposes of determining the largest fraction under clause 6 of this Schedule, the names of the candidates who have been credited with the equal fractions are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed, one of the slips is drawn at random by the returning officer and the candidate whose name is on the drawn slip is taken to have been credited with the largest fraction.

Local Government (General) Regulation 2005

Schedule 5 Counting of votes under proportional system

14 Check counting

- (1) A scrutineer may at any time during the counting of the votes, either before the commencement or after the completion of the transfer of the votes (whether original or transferred votes) of any candidate, request the returning officer to make a check count of the papers then comprised in the parcels of all or any candidates (but not of papers set aside as finally dealt with).
- (2) The returning officer is to make a check count immediately on receiving the request, unless the returning officer has already made a check count of the same votes.
- (3) The returning officer may also recount votes as often as he or she thinks necessary to establish accuracy.

15 Records and returns of voting and transfers

- (1) At each step of the proceedings the returning officer is to keep a record of the number of votes counted for each candidate, the transfer of surpluses, the exclusion of candidates and the transfer of their votes, the votes which are found to be informal, and those which at some stage become exhausted votes.
- (2) At the same time as the declaration of the election, the returning officer is to exhibit in some conspicuous position at the principal polling place and at the office of the relevant council a record of the voting, counting and transfers.
- (3) The council must, upon application made to it by any person, deliver or send to the person a copy of the record of voting, counting and transfers.

Local Government (General) Regulation 2005

Application of Election Funding Act 1981

Schedule 6

Schedule 6 Application of Election Funding Act 1981

(Clause 393)

- 1 The *Election Funding Act 1981*, as applied by the *Local Government Act 1993*, is to be read as if section 52 (2) were omitted.
- 2 The *Election Funding Act 1981*, as applied by the *Local Government Act 1993*, is to be read as if the references in section 51 (4) (a) to sections 32, 33, 35, 36 and 38 were instead references to sections 32, 33, 34, 35, 36, 37 and 38.
- 3 The *Election Funding Act 1981*, as applied by the *Local Government Act 1993*, is to be read as if section 93 (3) (b) were omitted and the following paragraph were inserted:
 - (b) in any other case where the Authority considers that compliance would not be appropriate.
- 4 Part 3 and clauses 30–34 of the *Election Funding Regulation 2004* apply in relation to elections under the *Local Government Act 1993* as if a reference in any of those provisions to a party were a reference to a party registered under that Act.

Local Government (General) Regulation 2005

Schedule 7 Election of mayor by councillors

Schedule 7 Election of mayor by councillors

(Clause 394)

Part 1 Preliminary

1 Returning officer

The general manager (or a person appointed by the general manager) is the returning officer.

2 Nomination

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor.
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.

3 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the council meeting at which the council resolves on the method of voting.
- (4) In this clause:
ballot has its normal meaning of secret ballot.
open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting

4 Application of Part

This Part applies if the election proceeds by ordinary ballot or by open voting.

Local Government (General) Regulation 2005

Election of mayor by councillors

Schedule 7

5 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

6 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

7 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 6 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot

8 Application of Part

This Part applies if the election proceeds by preferential ballot.

9 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.

Local Government (General) Regulation 2005

Schedule 7 Election of mayor by councillors

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- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
 - (3) An informal ballot-paper must be rejected at the count.

10 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause, *absolute majority*, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

11 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General**12 Choosing by lot**

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at

Local Government (General) Regulation 2005

Election of mayor by councillors

Schedule 7

random by the returning officer and the candidate whose name is on the drawn slip is chosen.

13 Result

The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:

- (a) to be declared to the councillors at the council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.

Local Government (General) Regulation 2005

Schedule 8 Election of chairpersons of county councils

Schedule 8 Election of chairpersons of county councils

(Clause 395)

Part 1 Preliminary

1 When election to be held

- (1) An election for chairperson of a county council is to be held:
 - (a) at the first meeting of the county council after an ordinary election of members of the county council, and
 - (b) at the first meeting of the county council after each anniversary of that ordinary election until the next ordinary election of members of the county council is held.
- (2) In subclause (1) (a), *ordinary election of members of the county council* does not include an election held in accordance with clause 1 (2) of Schedule 9 to this Regulation:
 - (a) after the first election of councillors for a newly amalgamated area that is:
 - (i) held in accordance with a proclamation made for the purposes of Division 2A of Part 1 of Chapter 9 of the Act, and
 - (ii) taken by that proclamation to be an ordinary election of councillors, or
 - (b) after an ordinary election of councillors for an area that has been postponed in accordance with the provisions of Part 6A of Chapter 10 of the Act.

2 Returning officer

The general manager of the county council in respect of which an election is being held (or a person appointed by the general manager) is the returning officer.

3 Notification of vacancy

- (1) The general manager of the county council in respect of which an election is being held must give notice of the occurrence of a vacancy in the office of chairperson of the county council to the Director-General and to the general managers of the councils of the areas part or all of which constitute the county council electorate in which the vacancy has occurred.

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Election of chairpersons of county councils

Schedule 8

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- (2) The general manager is to do that within 7 days of the occurrence of the vacancy.

4 Nomination

- (1) A member of a county council may be nominated without notice for election as chairperson of the county council.
- (2) The nomination is to be made in writing by 2 or more members of the county council (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the returning officer.
- (4) The returning officer is to announce the names of the nominees at the county council meeting at which the election is to be held.

5 Election

- (1) If only one member of the county council is nominated, that member is elected.
- (2) If more than one member is nominated, the county council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the county council meeting at which the county council resolves on the method of voting.
- (4) In this clause:
ballot has its normal meaning of secret ballot.
open voting means voting by a show of hands or similar means.

Part 2 Ordinary ballot or open voting**6 Application of Part**

This Part applies if the election proceeds by ordinary ballot or by open voting.

7 Marking of ballot-papers

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot-papers.
- (2) The formality of a ballot-paper under this Part must be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

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Schedule 8 Election of chairpersons of county councils

8 Count—2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

9 Count—3 or more candidates

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in subclause (2) is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 8 of this Schedule then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under subclause (1) or (2), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

Part 3 Preferential ballot**10 Application of Part**

This Part applies if the election proceeds by preferential ballot.

11 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The members of the county council are to mark their votes by placing the numbers “1”, “2” and so on against the various names so as to indicate the order of their preference for all the candidates.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 (1) (b) and (c) and (5) of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper must be rejected at the count.

12 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.

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Election of chairpersons of county councils

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- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot-papers counted to him or her are transferred to the candidates with second preferences on those ballot-papers.
 - (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot-papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. That candidate is elected.
 - (4) In this clause, *absolute majority*, in relation to votes, means a number that is more than one-half of the number of unexhausted formal ballot-papers.

13 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in, the election and the numbers of votes cast for the 2 candidates are equal—the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in, the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes—the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Part 4 General**14 Choosing by lot**

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

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Schedule 8 Election of chairpersons of county councils

15 Result

The result of the election (including the name of the candidate elected as chairperson of the county council) is:

- (a) to be declared to the members of the county council at the county council meeting at which the election is held by the returning officer, and
- (b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.

16 By-elections

- (1) Subject to subclause (2), a by-election to fill a vacancy in the office of chairperson of a county council is to be held at the next meeting of the county council occurring after the vacancy occurs.
- (2) No such by-election is to be held if the vacancy occurs after an ordinary election of councillors under Chapter 10 of the Act and before an election of chairperson of the county council in accordance with clause 1 (a) of this Schedule.

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Election of members of county councils

Schedule 9

Schedule 9 Election of members of county councils

(Clause 396)

Part 1 General

1 When elections to be held

- (1) The first ordinary election of members of a county council is to be held within 2 months of its establishment.
- (2) Subsequent ordinary elections are to be held within 2 months after each ordinary election of councillors under Part 4 of Chapter 10 of the Act.
- (3) A by-election to fill an office vacated by a member is to be held within 2 months after the occurrence of the vacancy.
- (4) No such by-election is to be held if the vacancy occurs after an ordinary election of councillors under Chapter 10 of the Act and before an ordinary election of members of a county council.

2 Notification of vacancy

- (1) The general manager of a county council must give notice of the occurrence of a vacancy in the office of a member of the county council to the Director-General and to the general managers of the councils of the areas part or all of which constitute the county council electorate in which the vacancy has occurred.
- (2) The general manager is to do that within 7 days of the occurrence of the vacancy.

Part 2 Single area electorate

3 Application of Part

This Part applies to the election of one or more members of a county council by the councillors of one constituent council, where the electorate comprises the whole or part of the area of that council only.

4 Returning officer

The general manager of the constituent council (or a person appointed by that general manager) is the returning officer.

5 Nomination

- (1) A councillor of the constituent council may be nominated for election as a member of the county council.

Local Government (General) Regulation 2005

Schedule 9 Election of members of county councils

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- (2) The nomination:
- (a) may be made without notice by any councillor of the council, and
 - (b) is to be in writing delivered or sent to the returning officer, and
 - (c) is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The returning officer is to announce the names of the nominees at a council meeting.

6 Election

- (1) If the number of candidates nominated is not more than the number of vacancies to be filled, those candidates are to be declared elected.
- (2) If there are more candidates nominated than the number to be elected, an election is to be determined by preferential ballot. The ballot is to be conducted by the preparation, marking and counting of ballot-papers in the presence of the council.

7 Ballot-papers and voting

- (1) The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the figures 1, 2 and so on against the various names so as to indicate the order of their preference for at least the number of candidates to be elected.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 of this Regulation as if it were a ballot-paper referred to in that clause.
- (3) An informal ballot-paper is to be rejected at the scrutiny of votes.

8 Count

The votes are to be counted in accordance with Schedule 4 of this Regulation.

9 Result

The result of the election (including the names of the candidates elected as members) is:

- (a) to be declared to the councillors by the returning officer at the council meeting where the election is held, and
- (b) to be delivered or sent to the general manager of the county council and the Director-General.

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Election of members of county councils

Schedule 9

Part 3 Joint electorate

Division 1 Preliminary

10 Application of Part

This Part applies to the joint election of one or more members of a county council by the councillors of two or more constituent councils, where the electorate comprises the whole or parts of those councils' areas.

11 Definitions

In this Part:

close of nominations, in relation to an election, means the time and date for the close of nominations in the election, fixed by a notification under clause 14 of this Schedule.

close of the ballot, in relation to an election, means the time and date for the close of the ballot in the election, fixed by a notification under clause 14 of this Schedule.

general manager means the general manager of the county council in respect of which an election is being held.

qualified elector, in relation to a county council electorate, means a councillor of a constituent council within that electorate in the county council's area of operations.

Division 2 Calling of election

12 Preferential system

An election under this Part is to be by the optional preferential system.

13 Returning officer

The returning officer is to be the general manager or a person appointed by the general manager (or, if no general manager has been appointed, a person appointed by the Minister).

14 Calling of election

- (1) The returning officer must, as soon as practicable after an ordinary election of councillors or as soon as practicable after being notified in writing of circumstances requiring that an election be held under clause 1 (1) or (3) of this Schedule, cause to be given to each of the qualified electors a notification:
 - (a) stating that an election is to be held, and
 - (b) inviting nominations, and

Local Government (General) Regulation 2005

Schedule 9 Election of members of county councils

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- (c) fixing the close of nominations, and
 - (d) fixing the close of the ballot.
- (2) The close of nominations is to be not less than 21 days nor more than 35 days after an ordinary election of councillors or after the returning officer is notified in writing of circumstances requiring that an election be held under clause 1 (1) or (3) of this Schedule.
 - (3) The close of the ballot is to be not less than 21 days after the close of nominations.

Division 3 Nominations**15 Nominations for elected member**

- (1) A nomination of a candidate at an election must contain the full names, full residential addresses and signatures of not less than 2 nominators, each being a qualified elector for the county council electorate in respect of which the election is to be held.
- (2) The nomination must also contain the full name and full residential address of the nominee and a statement signed by the nominee that the nominee consents to the nomination.
- (3) The returning officer must reject a nomination not made in accordance with this clause or a nomination received by the returning officer after the close of nominations.

16 Withdrawal of nomination

A candidate may withdraw from an election by notice in writing delivered to the returning officer at any time before the close of nominations.

17 Uncontested election

If, by the close of nominations, the number of candidates is not greater than the number of vacancies, those candidates are elected.

18 Contested election

If, by the close of nominations, the number of candidates is greater than the number of vacancies, a ballot is to be held.

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Election of members of county councils

Schedule 9

Division 4 The ballot

19 Printing of ballot-papers, directions to voters etc

- (1) If a ballot is to be held, the returning officer:
 - (a) must determine the order in which the candidates' names are to be listed on the ballot-paper by means of a ballot held in accordance with the procedure set out in clause 303 of this Regulation, and
 - (b) must cause sufficient ballot-papers to be printed so that a ballot-paper can be forwarded to each qualified elector.
- (2) The ballot-paper must contain:
 - (a) the names of the candidates, arranged in the order determined in accordance with subclause (1) (a), 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 between those candidates, and
 - (c) the directions as to the manner in which the vote is to be recorded, and the ballot-paper returned to the returning officer, required by subclause (3) or (4) and such other directions as the returning officer considers appropriate.
- (3) If only 1 candidate is to be elected, the directions to voters must include directions to the effect that:
 - (a) the voter 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 voter wishes to give his or her first preference, and
 - (b) the voter 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 voter's preferences for them.
- (4) If 2 or more candidates are to be elected, the directions to voters must include directions to the effect that:
 - (a) the voter must record a vote for at least the number of candidates which corresponds to the number of vacancies to be filled by placing the sequence of numbers corresponding to the number of vacancies to be filled in the squares opposite the names of the candidates in the order of the voter's preferences for them, and

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Schedule 9 Election of members of county councils

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- (b) the voter may vote for additional candidates by placing consecutive numbers, beginning with the number corresponding to the number of vacancies to be filled, plus one, in the squares opposite the names of those additional candidates in the order of the voter's preferences for them.

20 Distribution of ballot-papers

The returning officer must forward to each qualified elector:

- (a) a ballot-paper initialled by the returning officer or a person authorised by the returning officer in that behalf, and
- (b) an unsealed 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 the name, address and signature.

21 Duplicate ballot-papers

- (1) If any person to whom a ballot-paper has been forwarded satisfies the returning officer by statutory declaration:
 - (a) that the ballot-paper has been spoiled, lost or destroyed, and
 - (b) that the person has not already voted at the election to which the ballot-paper relates,the returning officer may, at any time before the close of the ballot, forward to the voter a new ballot-paper and envelope.
- (2) The returning officer must maintain a record of all ballot-papers forwarded to voters under this clause.

22 Recording of vote

A qualified elector who wishes to vote at the election:

- (a) must record his or her 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 forwarded with the ballot-paper, and
- (c) must seal the envelope, and
- (d) must state his or her full name and full address on, and sign, the back of the envelope, and
- (e) must return the envelope to the returning officer so as to be received by the returning officer before the close of the ballot.

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Election of members of county councils

Schedule 9

Division 5 The scrutiny

23 Receipt of ballot-papers

- (1) In any ballot, the returning officer must reject any envelope purporting to contain a ballot-paper if the envelope:
 - (a) is received after the close of the ballot, or
 - (b) is unsealed,without opening the envelope or inspecting the ballot-paper.
- (2) On receipt, before the close of the ballot, of an envelope purporting to contain a ballot-paper, the returning officer must examine the name on the back of the envelope and:
 - (a) if satisfied that a person of that name is a qualified elector, must accept the ballot-paper in that envelope for scrutiny without opening the envelope, or
 - (b) if not so satisfied, or if a name, address or signature does not appear on the back of the envelope, must reject any ballot-paper in the envelope without opening the envelope.
- (3) If it appears to the returning officer that the signature appearing on the back of any envelope referred to in subclause (2) is not the signature of the person whose name and address appear on the back of the envelope, the returning officer may make such inquiries as the returning officer thinks fit and if, after making those inquiries, the returning officer is satisfied that the signature is not the signature of that person, must reject any ballot-paper in the envelope without opening the envelope.

24 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.

25 Scrutineers

Each candidate is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at the scrutiny of votes in accordance with section 90 of the *Parliamentary Electorates and Elections Act 1912*.

26 Scrutiny of votes

- (1) At the scrutiny of votes, a ballot-paper must be rejected if it is informal.
- (2) The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 of this Regulation as if it were a ballot-paper referred to in that clause.

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Schedule 9 Election of members of county councils

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- (3) The scrutiny of votes in a ballot is to be conducted as follows:
- (a) the returning officer is to produce, unopened, the envelopes containing the ballot-papers accepted for scrutiny, other than any envelope (purporting to contain a ballot-paper) rejected under clause 23 (3) of this Schedule,
 - (b) the returning officer is then to open each such envelope, extract the ballot-paper and, without unfolding it, place it in a securely fastened ballot-box,
 - (c) when the ballot-papers from all such envelopes have been placed in the ballot-box, the returning officer is then to unfasten the ballot-box and remove the ballot-papers,
 - (d) the returning officer is then to examine each ballot-paper and reject those which are informal,
 - (e) the returning officer is then to proceed to count the votes and ascertain the result of the election in accordance with Schedule 4 of this Regulation.

27 Notification of result of election

As soon as practicable after candidates have been elected, the returning officer must notify the candidates, the general manager of each council participating in the joint election, the general manager of the county council and the Director-General in writing of the names of the candidates who have been declared elected.

Division 6 Miscellaneous**28 Voting not compulsory**

Voting at an election of members of a county council under this Part is not compulsory.

29 Electoral roll

- (1) For the purpose of preparing a roll of qualified electors for the purposes of this Part, the returning officer may (by notice in writing sent to the general managers of the councils participating in the joint election of the county council) require the general managers to furnish to the returning officer, within such time as may be specified in the notice, a list of the councillors for the time being of those councils.
- (2) A general manager of a council to whom such a notice is sent must comply with the requirements of the notice.

Local Government (General) Regulation 2005

Election of members of county councils

Schedule 9

30 Death of candidate

If a candidate for election as a member of a county council dies after the close of nominations and before the day when the poll at a contested election closes, the election fails in respect of the electorate for which the candidate is nominated.

31 Validity of elections

- (1) An election is not invalid just because:
 - (a) there was a formal defect or error in or relating to the election, if the election was held substantially in accordance with this Regulation, or
 - (b) there was a defect in the appointment of the returning officer.
- (2) A proclamation of the Governor to the effect that a specified irregularity does not invalidate an election is conclusive as to the matter stated in the proclamation.

32 Lapsed or void election

- (1) If an election for the office of member of a county council is not held when it is due, fails or is later declared void:
 - (a) the holder of the office at the time when the election should have been held or when the election failed (or, in the case of a void election, if there is no such holder, the candidate purporting to have been elected at the void election), holds the office as if duly elected until an election is held under paragraph (b), and
 - (b) the returning officer is to hold another election as if a casual vacancy had occurred in the office.
- (2) An election held for the purposes of this clause is as valid as it would have been if it had been held at the time originally appointed for the purpose.

33 Security of election materials

- (1) The returning officer, after the election has been declared, is to parcel the marked and unmarked ballot-papers, copies of the roll, and other papers used in the election.
- (2) The returning officer is to seal, endorse and sign each parcel, and to allow any scrutineers entitled to be present to do the same to each parcel.
- (3) The returning officer is to forward the parcels to the general manager.
- (4) The general manager is to have the parcels kept securely for 6 months, and then destroyed.

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Schedule 9 Election of members of county councils

34 Decision of returning officer final

If the returning officer is permitted or required by this Part 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.

35 Delegation of returning officer's functions

The returning officer may delegate to any member of staff of the county council any of the returning officer's functions under this Part.

36 Costs of election to be borne by the county council

The costs of conducting an election under this Part are to be borne by the county council.

Local Government (General) Regulation 2005

Constitutional referendums and council polls

Schedule 10

Schedule 10 Constitutional referendums and council polls

(Clause 397)

- 1 The following provisions of this Regulation do not apply to constitutional referendums or council polls under Part 3 of Chapter 4 of the Act:
 - (a) Divisions 2 and 4 of Part 11,
 - (b) clauses 301–305, 345, 351 (1) (b) and (e), 352 and 393–396,
 - (c) Schedules 4–9 and Forms 1–12 in Schedule 11.
- 2 Clause 357 of, and Form 15 in Schedule 11 to, this Regulation do not apply to council polls under Part 3 of Chapter 4 of the Act.
- 3 Part 11 of this Regulation, in its application to a constitutional referendum or council poll, is modified as follows:
 - (a) a reference to a ballot-paper is taken to be a reference to a poll-paper,
 - (b) if the referendum or poll is not held in conjunction with an election of councillors, the reference in clause 297 (3) to the nomination day is taken to be a reference to the fifth Friday before the polling day for the referendum or poll,
 - (c) scrutineers are to be appointed not by candidates but by the returning officer at the request of the general manager or mayor of the relevant council, or by the registered officer for a political party registered in the Local Government Register of Political Parties, or by the Electoral Commissioner,
 - (d) a reference in clause 353 (1) or (2) to a candidate is taken to be a reference to a scrutineer appointed in relation to the referendum or poll,
 - (e) clause 353 (2) (d) is taken to read as follows:
 - (d) be lodged with the returning officer within 24 hours after the persons present are informed of the result of the count.
 - (f) clause 354 (2) and (3) is to be read:
 - (2) as if the words “an alteration in the candidates who are elected”, wherever occurring, were omitted and the words “an alteration in the decision of the constitutional referendum or council poll” inserted instead, and
 - (3) as if the references to the candidate were references to the scrutineer,

Local Government (General) Regulation 2005

Schedule 10 Constitutional referendums and council polls

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- (g) clause 356 (2) is taken to be omitted and the following subclause inserted instead:
 - (2) The declaration is to be signed by the returning officer and is to state the question on the poll-paper and the number of “Yes” votes and the number of “No” votes.
 - (h) clause 356 (3) (c) is taken to be omitted and the following paragraph inserted instead:
 - (c) insert in a newspaper circulating in the relevant area a copy of a notice signed by the returning officer and containing a statement of the question on the poll-paper and the number of “Yes” votes and the number of “No” votes.

4 The following additional provisions apply to constitutional referendums and council polls under Part 3 of Chapter 4 of the Act:

- (a) if a council resolves to take a constitutional referendum or council poll, the general manager is to notify the Electoral Commissioner of the resolution within 21 days after the council makes the resolution,
- (b) the returning officer is to notify in a newspaper circulating in the area in which a referendum is to be taken, or the area or part of the area in which a poll is to be taken, the date of the referendum or poll, the question to be asked at the referendum or poll and the locations and times of polling for the referendum or poll:
 - (i) except as provided by subparagraph (ii)—immediately after being notified by the Electoral Commissioner of the date of the referendum or poll, or
 - (ii) in the case of a referendum or poll to be held in conjunction with an election of councillors—at the same time as the returning officer gives public notice of the election under clause 288 of this Regulation,
- (c) the poll-paper at a constitutional referendum or council poll is to be in Form 16 in Schedule 11,
- (d) a poll-paper at a constitutional referendum or council poll is informal if:
 - (i) neither the word “Yes” nor the word “No” is written in or near the space provided opposite the question, or
 - (ii) the poll-paper is not initialled on the back by the returning officer or an electoral official, or
 - (iii) the poll-paper contains a mark or writing that, in the returning officer’s opinion, would enable the voter to be identified,

Local Government (General) Regulation 2005

Constitutional referendums and council polls

Schedule 10

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- (e) in spite of paragraph (d) a poll-paper is not informal if:
 - (i) neither the word “Yes” nor the word “No” is written in or near the space provided opposite the question, or
 - (ii) the poll-paper contains an unnecessary mark, if, in the opinion of the returning officer, the voter’s intention is clearly indicated on the poll-paper,
 - (f) in spite of paragraph (d) a poll-paper is not informal because it is not initialled on the back by the returning officer or an electoral official if it contains the mark referred to in clause 305 (2) of this Regulation,
 - (g) a poll-paper that is informal is to be rejected at the scrutiny.

Local Government (General) Regulation 2005

Schedule 11 Forms

Schedule 11 Forms**Form 1 Request for omission or removal of place of living from roll (non-resident electors)**

(Clause 284)

To the General Manager, [*here specify local government area*]In reference to my enrolment in [*ward*], [*local government area*]I, [*surname in BLOCK letters*], [*other names in BLOCK letters*]
of [*full residential address*]request that *my residential address/*the following matter that would disclose or discloses my place of living be omitted or removed from the roll of electors for the abovementioned area (**cross out whichever does not apply*):[*here specify any other matter that would disclose or discloses the place of living*].The disclosure of my place of living on those rolls would place or places my personal safety or that of members of my family at risk. The following are particulars of the relevant risk [*state particulars*]:[*signature of applicant*][*date*]**Note.**

- 1 This request must be verified by statutory declaration by the person making the request or by another person. The form of statutory declaration on the back of this form may be used for this purpose.
- 2 Resident electors who wish to have their address or other matter removed from the electoral roll must make an application to the Australian Electoral Commission or the State Electoral Office.

STATUTORY DECLARATIONI, [*full name in BLOCK letters*], of [*full address*],
do solemnly and sincerely declare as follows [*make declaration*]:And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.[*signature of person making the declaration*]Declared before me at [*place*], [*date*]

Justice of the Peace

Local Government (General) Regulation 2005

Forms

Schedule 11

Form 2 Nomination paper: proposal by electors

(Clause 289 (1) (a))

WE, the undersigned persons enrolled for the election to be held in [*name of ward and area or name of area alone, as appropriate*]
on [*date*], hereby propose for nomination as a candidate at that election for the office of
[*here specify whether as councillor or mayor*]
[*full name in BLOCK letters*] of [*full residential address*], [*occupation*]

[*full name of proposer in BLOCK letters*] [*full name of proposer in BLOCK letters*]

[*signature of proposer*] [*signature of proposer*]

[*address of proposer*] [*address of proposed*]

[*date*] [*date*]

FORM OF CONSENT

I, the abovenamed [*full name of person proposed for nomination in BLOCK letters*]
hereby:

- 1 declare that, to the best of my knowledge and belief, *I was enrolled as an elector for the area on [*the closing date for the election*]/*my name has been mistakenly or accidentally omitted from the roll of electors [**cross out whichever does not apply*],
- 2 consent to my being proposed for nomination,
- 3 request that my name be shown on the ballot-papers as [*surname in BLOCK letters, given name in BLOCK letters*]
being my full surname and one of my given names or a generally recognised abbreviation or derivative of that given name,
- 4 *request/*do not request that the word "Independent" be printed adjacent to my name on the ballot-papers [**cross out whichever does not apply*].

[*signature of person proposed for nomination*]

Note.

- 1 See the back of this Form [or the attached page] for the provisions of the *Local Government Act 1993* covering qualification and disqualification for a civic office.

Local Government (General) Regulation 2005

Schedule 11 Forms

-
- 2 Examples of recognised abbreviations or derivatives of given names are Bill for William and Rose for Rosemary. Nicknames, eg Blue or Bunny, are not abbreviations or derivatives. Names are not to be accompanied by any title or academic or other qualification.
- 3 A person must not propose for nomination more than one candidate for election as mayor in the area, or more candidates for election as councillors in the ward or area than the total number of councillors to be elected for that ward or area (eg if five councillors are to be elected for an area, a person must not propose more than five persons for nomination as councillor for that area).

STATISTICAL INFORMATION SHEET

[Complete this sheet for ordinary elections only, not by-elections]

I, [full name in BLOCK letters]
of [full residential address],
declare that:

[tick the squares that apply]

- (a) I am male female, and
- (b) I am 18–24 years old
 25–29 years old
 30–39 years old
 40–49 years old
 50–59 years old
 60–69 years old
 70–79 years old
 80 years old or older, and
- (c) I was a candidate at the last ordinary election of the council
 Yes No, and
- (d) I consider myself to be an Aboriginal
 Yes No

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I consider myself to be a Torres Strait Islander

 Yes

 No.

[signature of person proposed for nomination]

Note. The information supplied above will be used for statistical purposes only. This information will be treated confidentially. All statistics will be published in aggregate or consolidated form only.

Form 3 Nomination paper: proposal by registered officer for party

(Clause 289 (1) (b))

I, the person whose name appears on this form as the registered officer for the political party (registered in the Local Government Register of Political Parties) that has endorsed the person proposed for nomination, hereby propose for nomination [*here state name in full in BLOCK letters, occupation and full residential address of the person proposed for nomination*] as a candidate at the election to be held in [*name of ward and area or name of area alone, as appropriate*] on [*date*] for the office of [*here specify whether as councillor or mayor*].

I request that the *registered name/*abbreviated name of the party be printed adjacent to the candidate's name on the ballot-papers [**cross out whichever does not apply*].

Dated

| Name in full of registered officer | Name of political party | Signature of registered officer |
|------------------------------------|-------------------------|---------------------------------|
|------------------------------------|-------------------------|---------------------------------|

FORM OF CONSENT

I, the abovenamed [*full name of person proposed for nomination in BLOCK letters*], hereby:

- 1 declare that, to the best of my knowledge and belief, *I was enrolled as an elector for the area on [*the closing date for the election*]/*my name has been mistakenly or accidentally omitted from the roll of electors [**cross out whichever does not apply*],

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-
- 2 consent to my being proposed for nomination,
 3 request that my name be shown on the ballot-papers as [*surname in BLOCK letters, given name in BLOCK letters*]
 being my full surname and one of my given names or a generally recognised abbreviation or derivative of that given name.

[*signature of person proposed for nomination*]

Note.

- 1 See the back of this Form [or the attached page] for the provisions of the *Local Government Act 1993* covering qualification and disqualification for a civic office.
- 2 Examples of recognised abbreviations or derivatives of given names are Bill for William and Rose for Rosemary. Nicknames, eg Blue or Bunny, are not abbreviations or derivatives. Names are not to be accompanied by any title or academic or other qualification.

STATISTICAL INFORMATION SHEET

(*Complete this sheet for ordinary elections only, no by-elections*)

I, [*full name in BLOCK letters*]
 of [*full residential address*],
 declare that:

[*tick the squares that apply*]

- (a) I am male female, and
- (b) I am 18–24 years old
 25–29 years old
 30–39 years old
 40–49 years old
 50–59 years old
 60–69 years old
 70–79 years old
 80 years old or older, and
- (c) I was a candidate at the last ordinary election of the council
- Yes No, and

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(d) I consider myself to be an Aboriginal

Yes

No

I consider myself to be a Torres Strait Islander

Yes

No.

[signature of person proposed for nomination]

Note. The information supplied above will be used for statistical purposes only. This information will be treated confidentially. All statistics will be published in aggregate or consolidated form only.

Form 4 Ballot-paper

(Clause 305 (8))

[insert name of ward if applicable]

[insert name of area]

Election of *[here insert the number of vacancies that the election is being held to fill and whether the election is of councillors or of the mayor]* held on *[insert election day]*.

Candidates

[If the returning officer has accepted an application to print the name of a political party or the word "Independent" adjacent to the name of a candidate, the name or word must be printed there.]

VALADON, Susan
(Blackacre)
ARRAIZA, Ramon
VALADON, Sue
(Tenterfield)
BROWN, Denise
KABOS, Colin
DAVIS, Ron
(Storekeeper, Tenterfield)
DAVIS, Ron
(Grazier, Tenterfield)
HO, Liam
MAHON, Sharon
WHITMORE, Kim

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[The following directions are to appear on the front or the back of the ballot-paper. If the directions appear on the back of the ballot-paper, an appropriate reference to their appearance on the back must be made on the front of the ballot-paper.]

Directions for Voting

[Here insert the following directions if only one candidate is to be elected]

Place the number “1” in the square next to the candidate of your choice.

If you wish to vote for any more candidates, place consecutive numbers starting with “2” in the squares next to those candidates in order of your preferences for them. *[This second direction should only be inserted if there are more than 2 candidates]*

[Here insert the following directions if 2 or more candidates are to be elected]

Place the numbers *[here insert the sequence of numbers that corresponds to the number of candidates to be elected]* in the squares next to the *[here insert the number of candidates to be elected]* candidates in order of your preferences for them.

If you wish to vote for any more candidates, place consecutive numbers starting with *[here insert the next number after the number of the candidates to be elected]* in the squares next to those candidates in order of your preferences for them. *[This second direction should only be inserted if there are at least 2 more candidates than candidates to be elected]*

ELECTORS PLEASE NOTE: YOU MUST NOT TAKE A BALLOT-PAPER OUT OF THE POLLING PLACE.

Form 5 Ballot-paper

(Clause 305 (8))

[insert name of ward if applicable]

[insert name of area]

Election of *[here insert the number of vacancies that the election is being held to fill]* councillors held on *[insert election day]*

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Candidates
GROUP A

VALADON,
Susan
(Blackacre)
*

ARRAIZA,
Ramon
*

VALADON,
Sue
(Tenterfield)
*

GROUP B

BROWN,
Denise
**

KABOS,
Colin
**

GROUP C

DAVIS,
Ronald
(Storekeeper,
Tenterfield)
*

DAVIS,
Ronald
(Grazier,
Tenterfield)
*

HO,
Liam
*

MAHON
Sharon

WHITMORE,
Terence

* Here insert name of registered party if to be printed.

** Here insert the word "Independent" if to be printed.

*** Here insert name of registered party or word "Independent" if to be printed.

[The following directions are to appear on the front or the back of the ballot-paper. If the directions appear on the back of the ballot-paper, an appropriate reference to their appearance on the back must be made on the front of the ballot-paper.]

Directions for Voting

Place the numbers [*here insert the sequence of numbers that corresponds to the number of candidates to be elected*] in the squares next to the [*here insert the number of candidates to be elected*] candidates in order of your preferences for them.

If you wish to vote for any more candidates, place consecutive numbers starting with (*here insert the next number after the number of the candidates to be elected*) in the squares next to those candidates in order of your preferences for them. [*This second direction should only be inserted if there are at least 2 more candidates than candidates to be elected*]

ELECTORS PLEASE NOTE: YOU MUST NOT TAKE A BALLOT-PAPER OUT OF THE POLLING PLACE.

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Form 6 Ballot-paper

(Clause 305 (8))

[insert name of ward if applicable] [insert name of area]


Election of [here insert the number of vacancies which the election is being held to fill] councillors held on [insert election day].

You may vote in one of two ways

either 

Place the number "1" in the square above the group of candidates for whom you wish to vote. If you wish to vote for additional candidates, place consecutive numbers beginning with the number "2" in the squares above the additional groups of candidates in the order of your preferences for them

| | | | |
|--------------------------|--------------------------|--|--------------------------|
| GROUP A * | GROUP B | | GROUP D * |
| <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> |

or 

Place the numbers (here insert the sequence of numbers which corresponds to the number of candidates to be elected) in the squares opposite the names of (here insert the number of candidates to be elected) candidates in order of your preference for them. If you wish to vote for additional candidates place consecutive numbers beginning with the number (here insert the next number after the number of candidates to be elected) in the squares opposite the names of those additional candidates in order of your preferences for them

| | | | | |
|---|--|---|---|--|
| GROUP A <input type="checkbox"/> PARKER Allan ** <input type="checkbox"/> MILLER John ** <input type="checkbox"/> MORGAN Albert ** <input type="checkbox"/> LUMSDAINE Elaine ** | GROUP B <input type="checkbox"/> WILLIAMS Gregory *** <input type="checkbox"/> ROGERS Ralph *** <input type="checkbox"/> COWAN Pamela *** | GROUP C <input type="checkbox"/> WRIGHT Elizabeth ** <input type="checkbox"/> LEVY Mark ** <input type="checkbox"/> McKENZIE Donald ** <input type="checkbox"/> PAGANO Vittore ** <input type="checkbox"/> WOOD Henry ** | GROUP D <input type="checkbox"/> SMITH Byron ** <input type="checkbox"/> HANSON Richard ** <input type="checkbox"/> LANHAM Margaret ** <input type="checkbox"/> PEREZ Juan ** | <input type="checkbox"/> KNIGHT Colin **** <input type="checkbox"/> ASSAF Joseph **** <input type="checkbox"/> WHITE Veronica **** <input type="checkbox"/> CRAWFORD James **** <input type="checkbox"/> MARTIN Michael **** |
|---|--|---|---|--|

- * Here insert name of registered party or composite name if to be printed
- ** Here insert name of registered party if to be printed
- *** Here insert the word "Independent" if to be printed
- **** Here insert name of registered party or word "Independent" if to be printed

Directions for Voting

[The following directions are to appear on the front or the back of the ballot-paper. If the directions appear on the back of the ballot-paper, an appropriate reference to their appearance on the back must be made on the front of the ballot-paper.]

ELECTORS PLEASE NOTE: YOU MUST NOT TAKE A BALLOT-PAPER OUT OF THE POLLING PLACE.

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Form 7 Application for postal vote

(Clause 314 (2))

To the returning officer for [*here specify local government area*].

I declare that:

- 1 My full name is [*name in BLOCK letters*]
- 2 I am entitled to vote at the forthcoming election to be held in the [*name of ward*] ward of the abovementioned local government area and the address of the land to which my entitlement relates (as resident, non-resident owner, occupier or ratepaying lessee) is [*address*]
- 3 If my name is not on the roll of electors, I claim to vote under section 305 of the *Local Government Act 1993*.
- 4 I have not already voted in connection with this election.
- 5 I am making this application for the following reason or reasons [*tick the squares that apply*]:

- I will not, throughout the hours of polling on election day, be within the ward or area for which this election is being held,
- I will not, throughout the hours of polling on election day, be within 8 kilometres by the nearest practicable route of any polling place at which I am entitled to vote,
- I will, throughout the hours of polling on election day, be travelling under conditions that will prevent me from attending at any such polling place to vote,
- I am seriously ill or disabled and will be prevented by that illness or disability from attending at any such polling place to vote,
- I will be prevented by approaching maternity from attending at any such polling place to vote,
- I am, by reason of my membership of a religious order or my religious beliefs, prevented from attending at any such polling place on election day or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours,
- I am, by reason of my being kept in prison, prevented from attending at any such polling place to vote,
- I will be, at a place other than a hospital, caring for a person who requires my care for medical reasons and because of that I will be prevented from attending at any such polling place to vote,
- I will, by reason of my being engaged for fee, gain or reward in any work throughout the hours of polling on election day, be prevented from attending at any such polling place to vote.

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I hereby apply for a postal ballot-paper and postal voting envelope so that I may vote at the abovementioned election. Please send them to the address below.

[signature of elector]

[date]

[address to which ballot-paper and envelope are to be sent: for a resident voter this can be any address, but for a non-resident voter it must be the voter's residential address]

STATEMENT OF WITNESS

I am of or above the age of 18 years and am not a candidate or the agent of a candidate at the abovementioned election, and

I am satisfied as to the identity of the applicant, and

I have seen the applicant sign the application, and

I know, or have satisfied myself by inquiry, that the statements contained in the application are true.

[signature of witness]

[address of witness]

[date]

Application No (official use only)

Form 8 Postal vote declaration and declaration where name not on roll

(Clauses 314 and 343)

Application No (official use only)

I [insert full name in BLOCK letters] declare that:

- 1 I have not already voted in connection with the forthcoming election being held on [date] in the [name of ward] ward of [local government area].
- 2 I am still entitled to vote at the election and the address of the land to which my voting entitlement relates (as resident, non-resident owner, occupier or ratepaying lessee) is: [full address].
- 3 To the best of my knowledge and belief I am enrolled on the New South Wales or Commonwealth electoral roll.

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4 The postal vote to which this declaration relates was completed before the close of the poll in the election.

If or because my name is not on the roll of electors being used at the election, in accordance with section 305 of the *Local Government Act 1993* I claim to be entitled to vote at the election.

[signature]

[date]

WITNESSING OF DECLARATION

Postal votes

I am at least 18 years old and am not a candidate or an agent of a candidate at the abovementioned election, and

I am satisfied as to the identity of the elector, and

I have seen the elector sign the declaration, and

I know, or have satisfied myself by reasonable inquiry, that the statements contained in the declaration are true.

The declaration was made before the close of the poll in the election.

[signature of witness]

[address of witness]

[date]

Voting at polling place

I, the returning officer/substitute returning officer/senior deputy returning officer, have seen the elector sign the declaration.

[signature]

[date]

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Form 9 Postal ballot-paper lost or not received

(Clause 318 (7))

To the returning officer/senior deputy returning officer [ward] [local government area]

I, [full name as it appears on the roll],
of [full address as it appears on the roll],

- declare that I have lost or have not received a postal ballot-paper in connection with the election being held in the abovementioned ward or area, even though a mark has been placed against my name on the roll to indicate that a postal ballot-paper has been issued to me.
- declare that I have lost or have not received a declaration envelope in connection with the election being held in the abovementioned ward or area, even though a record has been made that such an envelope has been issued to me.

*Tick the square that applies. Tick both squares if both apply.*I claim to vote under clause 318 of the *Local Government (General) Regulation 2005*.

[signature of elector]

Declared before me, this [date] at the [name of polling place] polling place.

[returning officer/senior deputy returning officer]

Form 10 Application for pre-poll vote

(Clause 322 (2))

To the returning/senior deputy returning officer for [local government area].

I declare that [tick the square that applies and complete the appropriate declaration]:

- 1 I am the person enrolled as [name on roll] of [address on roll, if address appears on roll] on the roll of electors for the [name of ward] ward of that area.

OR

- My name is not on the appropriate roll of electors. My name is [full name in BLOCK letters]
and the address of the land to which my voting entitlement relates (as resident, non-resident owner, occupier or ratepaying lessee) is [address]
To the best of my knowledge and belief I am enrolled on the New South Wales or Commonwealth electoral roll.
I claim to vote under section 305 of the *Local Government Act 1993* in the [name of ward] ward of that area.

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-
- 2 I am entitled to vote at the forthcoming election to be held in the abovementioned ward or area.
- 3 I have not already voted in connection with this election and if I vote here I will not vote anywhere else in that area at this election.
- 4 I am making this application for the following reason or reasons [*tick the squares that apply*]:
- I will not, throughout the hours of polling on election day, be within the ward or area for which this election is being held,
 - I will not, throughout the hours of polling on election day, be within 8 kilometres by the nearest practicable route of any polling place at which I am entitled to vote,
 - I will, throughout the hours of polling on election day, be travelling under conditions which will prevent me from attending at any such polling place to vote,
 - I am, by reason of my membership of a religious order or my religious beliefs, prevented from attending at any such polling place on election day or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours,
 - I will be, at a place other than a hospital, caring for a person who requires my care for medical reasons and by reason of that I will be prevented from attending at any such polling place to vote,
 - I will, by reason of my being engaged for fee, gain or reward in any work throughout the hours of polling on election day, be prevented from attending at any such polling place to vote.

I apply to vote before election day at the abovementioned election.

[*signature of applicant*]

Declared before me, [*date*].

[*returning officer/senior deputy returning officer*]

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Form 11 Declared institution vote declaration

(Clause 329 (1) (c))

To the returning/senior deputy returning officer for [local government area].

I declare that [tick the square that applies and complete the appropriate declaration]:

- 1 I am the person enrolled as [name on roll] of [address on roll, if address appears on roll] on the roll of electors for the [name of ward] ward of that area.

OR

- My name is not on the appropriate roll of electors. My name is [full name in BLOCK letters] and the address of the land to which my voting entitlement relates (as resident, non-resident owner, occupier or ratepaying lessee) is [address]
To the best of my knowledge and belief I am enrolled on the New South Wales or Commonwealth electoral roll.
I claim to vote under section 305 of the *Local Government Act 1993* in the [name of ward] ward of that area.
- 2 I am entitled to vote at the forthcoming election to be held in the abovementioned ward or area.
- 3 I have not already voted in connection with this election and if I vote here I will not vote anywhere else in that area at this election.

[signature of elector]

Declared before me, [date]

[returning officer/senior deputy returning officer]

Form 12 Declaration by an elector whose place of living is not on the roll

(Clause 339 (6))

To the returning officer/senior deputy returning officer [ward] [local government area]

Surname of elector [in BLOCK letters]

Given names [in BLOCK letters]

Address for which I claim to be enrolled [address]

If you have changed your name since you enrolled for the above address please print your previous name here [previous name]

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I am entitled to vote. I have not already voted at this election.

I declare that the information shown above is true.

Signature of elector

Polling place

Ward

Area

Date

Form 13 Voting if name already marked on roll

(Clause 344 (1))

(To be made by person claiming to vote when the person's name has already been marked off at the same polling-place)

To the returning/senior deputy returning officer [ward] [local government area]

I, [name in full as it appears on the roll],

of [address in full]

declare that:

- 1 My name appears on the roll used at the [name of polling place] polling place opposite the number [number] on that roll.
- 2 I have not voted in connection with the election for the abovementioned ward or area being held today, despite the fact that the roll has been marked to indicate that a ballot-paper has purportedly been issued to me at the polling-place.

I claim to vote under clause 344 of the *Local Government (General) Regulation 2005*.

[signature of voter]

Declared before me, this [date] at the [name of polling-place] polling-place.

[returning officer/senior deputy returning officer]

Form 14 Account of ballot-papers

(Clause 348 (4) (b))

To the returning officer, [local government area].

Ballot-papers received from returning officer for use at the polling place

Ballot-papers written out by senior deputy returning officer

Total:

Ballot-papers unused

Ballot-papers spoilt

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Ballot-papers used
 Ballot-papers issued to, but not returned by, electors
 Tendered votes
 Section 305 votes

Total:

Postal ballot-papers delivered up and cancelled
 [*senior deputy returning officer*]

Form 15 Penalty notice—Failure to vote

(Clause 357)

| Area | Ward | No on Roll |
|------|------|------------|
|------|------|------------|

[*Name and address*]

The Electoral Commissioner's records indicate that you appear to have failed to vote at the election/constitutional referendum held on [*date*]

The maximum penalty for failing to vote is [*insert maximum amount of penalty*].

IF YOU DID VOTE:

Please complete and sign the following declaration.

I declare that I did vote at [*polling place*]

in respect of the election/constitutional referendum held on [*date*]

[*signature*]

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IF YOU DID NOT VOTE:

- 1 If you think you have a sufficient reason for not voting, please complete and sign the following declaration:

I declare that I did not vote at the election/constitutional referendum held on [date] for the following reason:

[signature]

- 2 If you do not think you have a sufficient reason for not voting, you may dispose of the matter by:

- paying a penalty of [insert amount of penalty] to the Electoral Commissioner within 28 days of the date of this notice

OR

- having the matter dealt with by a court, where the maximum penalty is [insert maximum amount of penalty] and you may also have to pay court costs.

IF A DECLARATION OF VOTING IS NOT MADE, A REASON FOR NOT VOTING IS NOT GIVEN AND THE PENALTY IS NOT PAID WITHIN 28 DAYS, PROCEEDINGS MAY BE TAKEN AGAINST YOU IN COURT.

PROCEDURE FOR PAYMENT OF PENALTY OR OFFER OF EXPLANATION

Deliver or send the penalty or the explanation to the Electoral Commissioner at [address of Electoral Commissioner's Office]

Cheques and money orders should be crossed, marked not negotiable and made payable to the Electoral Commissioner.

DO NOT SEND CASH. PART PAYMENT OF THIS PENALTY CANNOT BE ACCEPTED.

The PENALTY for any person making a false statement in this Form is [insert maximum amount of penalty].

THIS FORM MUST BE DELIVERED OR SENT WITH YOUR PAYMENT OR EXPLANATION

Electoral Commissioner

TICK IF RECEIPT IS REQUIRED

[date]

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Form 16 Constitutional referendum or council poll paper

(Schedule 10, clause 4)

[*local government area*]
Constitutional referendum/council poll taken on [*date*]

Directions: The question below requires a “Yes” or “No” answer.
If you decide to answer “Yes” to the question, write the word “Yes”
in the space provided opposite the question.
If you decide to answer “No” to the question, write the word “No” in
the space provided opposite the question.

Question: [*here set out question*]

Local Government (General) Regulation 2005

Penalty notice offences

Schedule 12

Schedule 12 Penalty notice offences

(Clauses 398 and 399)

| Column 1 | Column 2 |
|--|-----------------|
| Offence under Local Government Act 1993 | Penalty |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 1 of Part D (Community land) of the Table to section 68 | \$220 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 2 of Part D (Community land) of the Table to section 68 | \$220 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 3 of Part D (Community land) of the Table to section 68 | \$220 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 4 of Part D (Community land) of the Table to section 68 | \$220 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 5 of Part D (Community land) of the Table to section 68 | \$220 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 6 of Part D (Community land) of the Table to section 68 | \$220 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 1 of Part E (Public roads) of the Table to section 68 | \$330 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 2 of Part E (Public roads) of the Table to section 68 | \$330 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 7 of Part F (Other activities) of the Table to section 68 | \$220 |
| Section 626 (3)—carry out without prior approval of council an activity specified in item 10 of Part F (Other activities) of the Table to section 68 | \$330 |
| Section 627 (3)—having obtained the council's approval to the carrying out of an activity specified in item 1 of Part D (Community land) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$110 |
| Section 627 (3)—having obtained the council's approval to the carrying out of an activity specified in item 2 of Part D (Community land) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$110 |
| Section 627 (3)—having obtained the council's approval to the carrying out of an activity specified in item 3 of Part D (Community land) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$110 |

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Schedule 12 Penalty notice offences

| Column 1 | Column 2 |
|---|-----------------|
| Offence under Local Government Act 1993 | Penalty |
| Section 627 (3)—having obtained the council’s approval to the carrying out of an activity specified in item 4 of Part D (Community land) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$110 |
| Section 627 (3)—having obtained the council’s approval to the carrying out of an activity specified in item 5 of Part D (Community land) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$110 |
| Section 627 (3)—having obtained the council’s approval to the carrying out of an activity specified in item 6 of Part D (Community land) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$110 |
| Section 627 (3)—having obtained the council’s approval to the carrying out of an activity specified in item 1 of Part E (Public roads) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$220 |
| Section 627 (3)—having obtained the council’s approval to the carrying out of an activity specified in item 2 of Part E (Public roads) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$220 |
| Section 627 (3)—having obtained the council’s approval to the carrying out of an activity specified in item 7 of Part F (Other activities) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$110 |
| Section 627 (3)—having obtained the council’s approval to the carrying out of an activity specified in item 10 of Part F (Other activities) of the Table to section 68, carry out the activity otherwise than in accordance with the terms of that approval | \$330 |
| Section 628 (1)—fail to comply with an order given in terms of order No 7 in the Table to section 124 | \$330 |
| Section 628 (1)—fail to comply with an order given in terms of order No 8 in the Table to section 124 | \$110 |
| Section 628 (1)—fail to comply with an order given in terms of order No 10 in the Table to section 124 | \$330 |
| Section 628 (2)—fail to comply with an order given in terms of order No 18 in the Table to section 124 | \$220 |
| Section 628 (2)—fail to comply with an order given in terms of order No 19 in the Table to section 124 | \$220 |
| Section 628 (2)—fail to comply with an order given in terms of order No 20 in the Table to section 124 | \$330 |

Local Government (General) Regulation 2005

Penalty notice offences

Schedule 12

| Column 1 | Column 2 |
|--|-----------------|
| Offence under Local Government Act 1993 | Penalty |
| Section 628 (2)—fail to comply with an order given in terms of order No 21 in the Table to section 124 | \$330 |
| Section 628 (2)—fail to comply with an order given in terms of order No 22 in the Table to section 124 | \$330 |
| Section 628 (2)—fail to comply with an order given in terms of order No 23 in the Table to section 124 (To connect premises to the council's water supply by a specified date) | \$330 |
| Section 628 (2)—fail to comply with an order given in terms of order No 24 in the Table to section 124 | \$330 |
| Section 628 (2)—fail to comply with an order given in terms of order No 25 in the Table to section 124 | \$330 |
| Section 628 (2)—fail to comply with an order given in terms of order No 27 in the Table to section 124 | \$220 |
| Section 628 (3)—fail to comply with an order given in terms of order No 30 in the Table to section 124 (To comply with an approval concerning an activity specified in Part D (Community land) of the Table to section 68) | \$110 |
| Section 628 (3)—fail to comply with an order given in terms of order No 30 in the Table to section 124 (To comply with an approval concerning an activity specified in Part E (Public roads) of the Table to section 68) | \$220 |
| Section 628 (3)—fail to comply with an order given in terms of order No 30 in the Table to section 124 (To comply with an approval concerning an activity specified in Part F (Other activities) of the Table to section 68: Use a standing vehicle or any article for the purpose of selling any article in a public place) | \$110 |
| Section 629 (2)—remove any plant or animal from a public place | \$220 |
| Section 630 (1)—without lawful excuse, break a bottle, glass, glass receptacle or syringe in a public place | \$220 |
| Section 630 (2)—throw, place, leave in a public place any bottle, glass, glass receptacle, syringe, broken glass or other matter or thing likely to endanger the safety of or cause injury to any person or animal or damage to any vehicle or property | \$220 |
| Section 630 (3)—break a bottle, glass, syringe or glass receptacle in a public bathing place under the control of the council, and not collect and remove all portions of the bottle, glass, syringe or glass receptacle either to a receptacle (if any) provided by the council for that purpose, or to a place beyond the public bathing place | \$220 |

Local Government (General) Regulation 2005

Schedule 12 Penalty notice offences

| Column 1 | Column 2 |
|--|-----------------|
| Offence under Local Government Act 1993 | Penalty |
| Section 631—in a public bathing place under the control of the council, do any act that damages, defaces or pollutes the public bathing place or that is likely to damage, deface or pollute the public bathing place or anything relating to the public bathing place | \$220 |
| Section 632 (1)—in a public place within the area of a council, fail to comply with the terms of a notice erected by the council | \$110 |
| Section 633 (1)—in a place being: | |
| (a) a public bathing place under the control of a council, | \$110 |
| (b) a river, watercourse or tidal or non-tidal water, | \$110 |
| (c) the sea adjacent to (although outside) an area, | \$110 |
| (d) a public place adjacent to any of those places, | \$110 |
| fail to comply with the terms of a notice erected by the council | |
| Section 633 (2)—be in the nude in public view in a place (unless a notice erected by the council allows the use of the place (or part of the place) for the purposes of nude bathing) being: | |
| (a) a public bathing place under the control of a council, | \$110 |
| (b) a river, watercourse or tidal or non-tidal water, | \$110 |
| (c) the sea adjacent to (although outside) an area, | \$110 |
| (d) a public place adjacent to any of those places | \$110 |
| Section 637 (1)—wilfully or negligently wasting or misusing water from a public water supply | \$220 |
| Section 651B (1)—immobilise a vehicle owned by another person by means of wheel clamps, or a prescribed device, except with the consent of the owner | \$300 |
| Section 651C (1) (a)—fail to release a vehicle on demand to any person having a lawful right to the possession or control of the vehicle | \$300 |
| Section 651C (1) (b)—demand payment for or in relation to the release of a vehicle | \$300 |



New South Wales

Long Service Leave Regulation 2005

under the

Long Service Leave Act 1955

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Long Service Leave Act 1955*.

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

Explanatory note

The object of this Regulation is to remake, without substantial change, the *Long Service Leave Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The *Long Service Leave Act 1955* provides that bonuses paid to workers are to form part of the ordinary pay of a worker for the purposes of payment for long service leave. Section 3 (2C) of that Act provides that bonuses received by a worker are not to be taken into account if the ordinary annual pay of the worker (excluding bonuses) exceeds the amount prescribed by the regulations. This Regulation prescribes the annual amount as \$144,000 (the *Long Service Leave Regulation 2000* prescribed the amount as \$120,000).

This Regulation 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.

This Regulation is made under the *Long Service Leave Act 1955* including sections 3 (2C) and 15 (the general regulation-making power).

Clause 1 Long Service Leave Regulation 2005

Long Service Leave Regulation 2005

under the

Long Service Leave Act 1955

1 Name of Regulation

This Regulation is the *Long Service Leave Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Long Service Leave Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Long Service Leave Act 1955*.

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

4 Calculation of ordinary pay for payment of leave: bonuses

For the purposes of section 3 (2C) of the Act, the prescribed annual amount of a worker's ordinary pay is \$144,000.

Note. The *Long Service Leave Act 1955* provides that bonuses paid to workers are to form part of the ordinary pay of a worker for the purposes of payment for long service leave. Section 3 (2C) of that Act provides that bonuses received by a worker are not to be taken into account if the ordinary annual pay of the worker (excluding bonuses) exceeds the amount prescribed by the regulations. This clause prescribes that amount.

5 Saving

The *Long Service Leave Regulation 2000*, as in force immediately before its repeal, continues to have effect in respect of any entitlement to long service leave that arose before the repeal of the regulation.



New South Wales

Long Service Leave (Metalliferous Mining Industry) Regulation 2005

under the

Long Service Leave (Metalliferous Mining Industry) Act 1963

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Long Service Leave (Metalliferous Mining Industry) Act 1963*.

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

Explanatory note

The object of this Regulation is to remake, without substantial change, the *Long Service Leave (Metalliferous Mining Industry) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The *Long Service Leave (Metalliferous Mining Industry) Act 1963* provides that bonuses paid to workers are to form part of the ordinary pay of a worker for the purposes of payment for long service leave. Section 3 (2C) of that Act provides that bonuses received by a worker are not to be taken into account if the ordinary annual pay of the worker (excluding bonuses) exceeds the amount prescribed by the regulations. This Regulation prescribes the annual amount as \$144,000 (the *Long Service Leave (Metalliferous Mining Industry) Regulation 2000* prescribed the amount as \$120,000).

This Regulation 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.

This Regulation is made under the *Long Service Leave (Metalliferous Mining Industry) Act 1963* including sections 3 (2C) and 15 (the general regulation-making power).

Clause 1 Long Service Leave (Metalliferous Mining Industry) Regulation 2005

Long Service Leave (Metalliferous Mining Industry) Regulation 2005

under the

Long Service Leave (Metalliferous Mining Industry) Act 1963

1 Name of Regulation

This Regulation is the *Long Service Leave (Metalliferous Mining Industry) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Long Service Leave (Metalliferous Mining Industry) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Long Service Leave (Metalliferous Mining Industry) Act 1963*.

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

4 Calculation of ordinary pay for payment of leave: bonuses

For the purposes of section 3 (2C) of the Act, the prescribed annual amount of a worker's ordinary pay is \$144,000.

Note. The *Long Service Leave (Metalliferous Mining Industry) Act 1963* provides that bonuses paid to workers are to form part of the ordinary pay of a worker for the purposes of payment for long service leave. Section 3 (2C) of that Act provides that bonuses received by a worker are not to be taken into account if the ordinary annual pay of the worker (excluding bonuses) exceeds the amount prescribed by the regulations. This clause prescribes that amount.

5 Saving

The *Long Service Leave (Metalliferous Mining Industry) Regulation 2000*, as in force immediately before its repeal, continues to have effect in respect of any entitlement to long service leave that arose before the repeal of the regulation.



New South Wales

Marketing of Primary Products Regulation 2005

under the

Marketing of Primary Products Act 1983

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Marketing of Primary Products Act 1983*.

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

Explanatory note

The object of this Regulation is to remake, with minor modification, and consolidate the *Marketing of Primary Products (Polls and Elections) Regulation 2000* and the *Marketing of Primary Products (Boards and Committees) Regulation 2000*. Those Regulations are repealed by section 10 (2) of the *Subordinate Legislation Act 1989* on 1 September 2005.

This Regulation makes provision for the following matters:

- (a) the qualifications a producer of primary products needs to have to be entitled to vote in a poll or election (clause 4 and Schedule 1),
- (b) the conduct of polls on certain questions in accordance with the Act (Part 2),
- (c) the conduct of elections for certain members of boards and committees under the Act (Part 3),
- (d) procedural matters relating to the appointment of alternate members, the use of seals and the signing of documents (Division 1 of Part 4),
- (e) a provision enabling the Rice Marketing Board to exempt certain sales of rice from the operation of section 56 of the Act and so to exempt the rice from compulsory vesting in the Board (clause 57),
- (f) other matters of a minor, consequential or ancillary nature (Parts 1 and 5).

In relation to polls and elections, this Regulation includes provisions for rolls, notices, nominations, polling procedures, scrutiny, counting and forms.

This Regulation is made under the *Marketing of Primary Products Act 1983*, including sections 39, 40, 57, 59, 101, 102, 151, 158 and section 163 (the general regulation-making power).

Marketing of Primary Products Regulation 2005

Explanatory note

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

Marketing of Primary Products Regulation 2005

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Marketing of Primary Products Regulation 2005

under the

Marketing of Primary Products Act 1983

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Marketing of Primary Products Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Marketing of Primary Products (Polls and Elections) Regulation 2000* and the *Marketing of Primary Products (Boards and Committees) Regulation 2000* which are repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

election means an election under Part 2 or 5 of the Act.

poll means a poll under Part 2 or 5 of the Act.

prescribed qualifications means the qualifications prescribed by clause 4 and Schedule 1.

returning officer means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person employed in the office of and nominated by the Electoral Commissioner for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.

the Act means the *Marketing of Primary Products Act 1983*.

(2) In this Regulation:

(a) a reference to a Form is a reference to a Form set out in Schedule 2, and

(b) a reference to a primary product includes a reference to a commodity.

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

Marketing of Primary Products Regulation 2005

Clause 4

Preliminary

Part 1

4 Prescribed qualifications

For the purposes of sections 39 (4) and 101 (4) of the Act, the prescribed qualifications in relation to a producer of a particular primary product are the qualifications specified in Schedule 1 in respect of a producer of that product.

Clause 5 Marketing of Primary Products Regulation 2005

Part 2 Polls

Part 2 Polls

Division 1 Preliminary

5 Definitions

In this Part:

appropriate officer means:

- (a) in relation to a poll under section 7 or 81 of the Act—the Director-General, and
- (b) in relation to any other poll—the secretary of the board or committee in respect of which the poll is to be taken.

calling of the poll for a poll means the date on which a notice is first published under clause 7 in respect of the poll.

close of enrolments for a poll means the final time and date fixed by the returning officer for the close of enrolments in the poll.

close of exhibition of the roll for a poll means the final time and date fixed by the returning officer for the close of exhibition of the roll in the poll.

close of the poll for a poll means the final time and date fixed by the returning officer for the close of the poll.

final roll for a poll means the roll prepared for the poll by the returning officer under Division 3.

preliminary roll for a poll means the roll for the poll with which the returning officer is provided under clause 6.

Division 2 Calling of the poll

6 Preparation of preliminary roll

- (1) As soon as practicable after the Governor has directed that a poll be taken in any area on any question, the returning officer must notify the appropriate officer:
 - (a) that a poll is to be held in that area on that question, and
 - (b) that the appropriate officer is required to give the returning officer:
 - (i) a preliminary roll of the persons who, in the opinion of the appropriate officer, are qualified to vote in the poll, and
 - (ii) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in the roll.

Marketing of Primary Products Regulation 2005

Clause 7

Polls

Part 2

-
- (2) The preliminary roll:
- (a) must contain the full 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 appropriate officer in accordance with Form 1.
- (3) This clause does not apply to a poll to be held as a consequence of an earlier poll that has failed if a preliminary roll for the earlier poll has already been provided to the returning officer.

7 Notice of poll

- (1) As soon as practicable after the Governor has directed that a poll be taken in any area on any question, the returning officer must cause notice that a poll is to be held:
- (a) to be published in at least one newspaper circulating generally throughout New South Wales, or
 - (b) to be sent by post to each person whose name is included in the preliminary roll for the poll at the address shown on the roll.
- (2) The notice:
- (a) must state the question on which the poll is being conducted, and
 - (b) must fix a time and date for the close of exhibition of the preliminary roll, and
 - (c) must advise where copies of the preliminary roll will be exhibited, and
 - (d) must fix a time and date for the close of enrolments, and
 - (e) must specify the qualifications which entitle a person to vote, and
 - (f) must advise where applications for enrolment and objections against enrolment may be lodged, and
 - (g) must fix the time and date for the close of the poll.
- (3) The notice must also state that it is compulsory for persons who are entitled to vote in the poll to be enrolled, or to apply for enrolment, in the final roll for the poll.
- (4) The close of exhibition of the roll must not be earlier than 14 days after the calling of the poll.
- (5) The close of enrolments must not be earlier than the close of exhibition of the roll or later than 14 days before the close of the poll.
- (6) The close of the poll must not be earlier than 28 days, or later than 90 days, after the calling of the poll.

Clause 8 Marketing of Primary Products Regulation 2005

Part 2 Polls

8 Postponement of poll

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of exhibition of the roll, the close of enrolments or the close of the poll by a notice published in the same way as the notice stating that a poll is to be held.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of a poll.

Division 3 Preparation of final roll

9 Exhibition of preliminary roll

The returning officer must cause copies of the preliminary roll to be exhibited for public inspection:

- (a) at the places where applications for enrolment and objections against enrolment may be lodged, and
- (b) for a period of at least 14 days ending at the close of exhibition of the roll.

10 Qualifications for voting

- (1) A person is qualified to vote in a poll if, and only if, the person has the prescribed qualifications.
- (2) This clause does not entitle a person (whether in their own capacity or in their capacity as the representative of some other person):
 - (a) to vote more than once in any poll, or
 - (b) to vote in 2 or more polls if polls are being held simultaneously in different areas.

11 Enrolment compulsory

It is compulsory for every person who is entitled to vote in a poll to be enrolled, or to apply for enrolment, in the final roll for the poll.

12 Enrolment of representatives

- (1) If, in the opinion of the returning officer, a primary product is actually grown or produced for sale:
 - (a) on behalf of a corporation—the corporation is taken to be enrolled, or to apply for enrolment, in the final roll for a poll 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 final roll for a poll if,

Marketing of Primary Products Regulation 2005

Clause 13

Polls

Part 2

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 or 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 final roll for a poll 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) Only one person may be nominated to vote in the poll as a representative of the corporation, partnership, person or estate concerned.
- (3) A nominee must be a natural person who is not already enrolled in the final roll for the poll in some other capacity.
- (4) A representative of a corporation, partnership, person or estate is taken to be a producer for the purposes of enrolment and of any poll in which the corporation, partnership, person or estate is qualified to vote.
- (5) In this clause, a reference to a partnership includes a reference to the parties to a share-farming agreement and to any group of persons who, in the opinion of the returning officer, are engaged in a single enterprise in the growing or production for sale of a primary product.
- (6) 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.
- (7) For the purpose of enabling the returning officer to form an opinion as to whether a primary product is actually grown or produced for sale on behalf of a corporation or a partnership or by trustees or legal personal representatives on behalf of a person or an estate of a person, the returning officer may require the appropriate officer to furnish the returning officer with such information as the returning officer may specify.

13 Applications for enrolment by persons not already enrolled

- (1) A person whose name does not appear on the preliminary roll for a poll may apply for enrolment in the final roll for the poll.
- (2) The application must be in Form 2 and must be lodged with the returning officer before the close of enrolments.

Clause 14 Marketing of Primary Products Regulation 2005

Part 2 Polls

- (3) On receipt of the application, the returning officer:
 - (a) if satisfied that the applicant is entitled to enrolment, must accept the application and enter the name and address of the applicant in the final roll for the poll, 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.
- (4) For the purpose of enabling the returning officer to form an opinion as to whether a person is entitled to enrolment, the returning officer may require the appropriate officer to furnish the returning officer with such information regarding the person as the returning officer may specify.

14 Objections to enrolment

- (1) Before the close of enrolments, the returning officer and any person who is entitled to vote in a poll may object to the inclusion of the name of any person in the final roll.
- (2) An objection:
 - (a) must be in Form 3, and
 - (b) must state the grounds on which it is made, and
 - (c) must be signed by the objector, and
 - (d) must be lodged with the returning officer.
- (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 7 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 7 day period, and may make such inquiries as the returning officer thinks fit.
- (6) The returning officer may accept or reject an objection.
- (7) If the returning officer accepts an objection, the returning officer must exclude the name of the person to whom the objection relates from the final roll for the poll and must inform the person and the objector, in writing, that the person's name is so excluded.

Marketing of Primary Products Regulation 2005

Clause 15

Polls

Part 2

-
- (8) If the returning officer rejects an objection, the returning officer must inform 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.
 - (10) For the purpose of enabling the returning officer to make a decision to accept or reject an objection to the inclusion of the name of a person in the final roll, the returning officer may require the appropriate officer to furnish the returning officer with such information regarding the person as the returning officer may specify.

15 Postponement of poll not to affect final roll

The validity of the final roll for a poll is not affected by the postponement of the close of the poll by a notice published after the close of exhibition of the roll, and the roll remains the final roll for the poll.

Division 4 The ballot

16 Voting optional

Voting at a poll is not compulsory.

17 Printing of ballot-papers

- (1) As soon as practicable after the close of enrolments in a poll, the returning officer must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person whose name is included in the final roll for the poll.
- (2) A ballot-paper for a poll must contain:
 - (a) the question to be voted on in the poll followed by the words "YES" and "NO", together with appropriate spaces for the voter to indicate the voter's intention with respect to the question, and
 - (b) 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.

18 Distribution of ballot-papers

As soon as practicable after the printing of the ballot-papers for a poll, the returning officer must send to each person included in the final roll for the poll:

Clause 19 Marketing of Primary Products Regulation 2005

Part 2 Polls

- (a) a ballot-paper that is initialled by the returning officer (or by a person authorised by the returning officer) or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, and
- (b) an unsealed envelope addressed to the returning officer and bearing on the back the words “FULL NAME AND ADDRESS OF VOTER” and “SIGNATURE OF VOTER”, together with appropriate spaces for the insertion of a name, address and signature.

19 Duplicate ballot-papers

- (1) At any time before the close of the poll, 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 poll to which the ballot-paper relates.
- (2) The returning officer is to maintain a record of all duplicate ballot-papers issued under this clause.

20 Recording of votes

In order to vote in a poll, 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 poll.

Division 5 The scrutiny

21 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 by the returning officer before the close of the poll or is received unsealed.

Marketing of Primary Products Regulation 2005

Clause 22

Polls

Part 2

-
- (2) The returning officer must examine the name on the back of each remaining envelope and, without opening the envelope:
- (a) must accept the ballot-paper in the envelope and draw a line through the name on the final roll for the poll that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the roll, 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 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.

22 Ascertaining result of poll

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

23 Scrutineers

Each organisation which, in the opinion of the returning officer, has an interest in the outcome of a poll is to be entitled to appoint, by notice in writing, a scrutineer to represent it at all stages of the scrutiny.

24 Scrutiny of votes

- (1) The scrutiny of votes in a poll is to be conducted as follows:
- (a) the returning officer is to produce, unopened, the envelopes containing the ballot-papers accepted for scrutiny,
 - (b) the returning officer is then to 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 such envelopes have been placed in the ballot-box, the returning officer is then to unlock the ballot-box and remove the ballot-papers,
 - (d) the returning officer is then to examine each ballot-paper and reject those that are informal,
 - (e) the returning officer is then to proceed to count the votes and ascertain the result of the poll.

Clause 25 Marketing of Primary Products Regulation 2005

Part 2 Polls

- (2) At the scrutiny of votes in a poll, a ballot-paper must be rejected as informal if:
- (a) it is neither initialled by the returning officer (or by a person authorised by the returning officer to do so) 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) 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) it has not been completed in accordance with the directions shown on it.
- (3) However, a ballot-paper is not to be rejected as informal merely because of any mark or writing on it that is not authorised or required by this Regulation (unless it is a mark or writing referred to in subclause (2) (b)) if the returning officer considers that the voter's intention is clearly indicated on the ballot-paper.
- (4) The result of the poll is to be ascertained by determining the following:
- (a) the number of votes accepted in the poll,
 - (b) the number of votes in favour of the question on which the poll is being taken,
 - (c) the number of votes against that question,
 - (d) the number of votes rejected as informal.

25 Notification of result of poll

As soon as practicable after the result of a poll has been ascertained, the returning officer is to notify the Minister and the appropriate officer in writing of the result of the poll.

Marketing of Primary Products Regulation 2005

Clause 26

Elections

Part 3

Part 3 Elections

Division 1 Preliminary

26 Definitions

In this Part:

appropriate officer means:

- (a) in the case of an election to a vacancy as required by clause 6 (1) of Schedule 2 to the Act—the secretary of the board or committee in respect of which the election is to be held, or
- (b) in any other case—the Director-General.

area includes electoral district.

calling of the ballot for an election means the date on which a notice is first published for the election under clause 35.

calling of the election for an election means the date on which a notice is published for the election under clause 27.

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.

close of exhibition of the roll for an election means the final time and date fixed by the returning officer for the exhibition of the roll in the election.

close of nominations for an election means the final time and date fixed by the returning officer for the close of nominations in the election.

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.

electoral district means an electoral district appointed under section 9 (1) of the Act.

final roll for an election means the roll prepared by the returning officer under Division 5.

preliminary roll for an election means the roll provided to the returning officer under clause 34.

Division 2 Calling of the election

27 Notice of election

- (1) As soon as practicable after the Governor has directed that an election is required to be held in any area for any purpose, the returning officer must cause notice of that fact:
 - (a) to be sent to the appropriate officer, and

Clause 28 Marketing of Primary Products Regulation 2005

Part 3 Elections

-
- (b) to be published in a newspaper circulating generally throughout the electoral district.
 - (2) The notice to be sent to the appropriate officer:
 - (a) must state that an election is to be held in that area for that purpose, 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 in that area for that purpose, and
 - (b) must call for nominations of candidates, and
 - (c) must specify 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 advise where information is available as to the qualifications which entitle a producer to nominate a candidate for the election, and
 - (f) must specify the method of counting the votes that will apply.

Note. Clause 52 provides that the method of counting the votes in an election may be either the preferential method provided by the *Constitution Act 1902* or the "first past the post" method.
 - (4) The close of nominations must not be earlier than 21 days, or later than 28 days, after the calling of the election.
 - (5) The returning officer must ensure that information as to the qualifications which entitle a producer to nominate a candidate for the election is available as stated in the notification.
 - (6) Information as to those qualifications may be made available as information forming part of a copy of any form provided by the returning officer for use in the nomination of a candidate.

28 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.

Marketing of Primary Products Regulation 2005

Clause 29

Elections

Part 3

Division 3 Nominations

29 Eligibility for nomination

Any person is eligible for nomination as a candidate for election.

30 Nomination of candidates

- (1) A nomination of a candidate:
 - (a) must be in Form 4, and
 - (b) must be made by at least 6 persons (other than the candidate) who each have the prescribed qualifications, 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 appropriate officer to furnish the returning officer with such information regarding the person as the returning officer may specify.
- (4) The appropriate officer must comply with such a requirement as soon as practicable.
- (5) 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.

31 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.

32 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.

Clause 33 Marketing of Primary Products Regulation 2005

Part 3 Elections

33 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 5, 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 the ballot

34 Preparation of preliminary roll

- (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 appropriate officer.
- (2) The appropriate officer must provide the returning officer with:
 - (a) a preliminary roll of the persons who, in the opinion of the appropriate officer, 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 that roll.

Marketing of Primary Products Regulation 2005

Clause 35

Elections

Part 3

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- (3) The 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
 - (b) must be certified by the appropriate officer in accordance with Form 1.
- (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.

35 Notice of ballot

- (1) As soon as practicable after receiving the preliminary roll for the election, the returning officer must cause notice that an election is to be held:
- (a) to be published in at least one newspaper circulating generally throughout New South Wales, or
 - (b) to be sent by post to each person whose name is included in the preliminary roll for the election at the address shown on the roll.
- (2) The notice:
- (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 roll, and
 - (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, and
 - (e) must advise where copies of the preliminary roll will be exhibited, and
 - (f) must specify the qualifications that qualify a person to vote, and
 - (g) must advise where applications for enrolment and objections against enrolment may be lodged.
- (3) The notice must also state that it is compulsory for persons who are entitled to vote in the election to be enrolled, or to apply for enrolment, in the final roll for the election.
- (4) The close of exhibition of the roll must not be earlier than 14 days after the calling of the ballot.
- (5) The close of the ballot must not be earlier than 28 days after the calling of the ballot.
- (6) The close of enrolments must not be earlier than the close of exhibition of the roll or later than 14 days before the close of the ballot.

Clause 36 Marketing of Primary Products Regulation 2005

Part 3 Elections

36 Postponement of ballot

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of exhibition of the roll, 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.

Division 5 Preparation of final roll

37 Exhibition of preliminary roll

The returning officer must cause copies of the preliminary roll to be exhibited for public inspection:

- (a) at the places where applications for enrolment and objections against enrolment may be lodged, and
- (b) for a period of at least 14 days ending at the close of exhibition of the roll.

38 Qualifications for voting

- (1) A person is qualified to vote in an election if, and only if, the person has the prescribed qualifications.
- (2) This clause does not entitle a person (whether in their own capacity or in their capacity as the representative of some other person):
 - (a) to vote more than once in any election, or
 - (b) to vote in 2 or more elections if elections are being held simultaneously in different electoral districts.

39 Enrolment compulsory

It is compulsory for every person who is entitled to vote in an election to be enrolled, or to apply for enrolment, in the final roll for the election.

40 Enrolment of representatives

- (1) If, in the opinion of the returning officer, a primary product is actually grown or produced for sale:
 - (a) on behalf of a corporation—the corporation is taken to be enrolled, or to apply for enrolment, in the 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 final roll for an election

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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 or 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 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) Only one person may be nominated to vote in the election as a representative of the corporation, partnership, person or estate concerned.
- (3) A nominee must be a natural person who is not already enrolled in the final roll for the election in some other capacity.
- (4) A representative of a corporation, partnership, person or estate is taken to be a producer for the purposes of enrolment and of any election in which the corporation, partnership, person or estate is qualified to vote.
- (5) In this clause, a reference to a partnership includes a reference to the parties to a share-farming agreement and to any group of persons who, in the opinion of the returning officer, are engaged in a single enterprise in the growing or production for sale of a primary product.
- (6) 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.
- (7) For the purpose of enabling the returning officer to form an opinion as to whether a primary product is actually grown or produced for sale on behalf of a corporation or a partnership or by trustees or legal personal representatives on behalf of a person or an estate of a person, the returning officer may require the appropriate officer to furnish the returning officer with such information as the returning officer may specify.

41 Applications for enrolment by persons not already enrolled

- (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 2 and must be lodged with the returning officer before the close of enrolments.

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- (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 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.
- (4) For the purpose of enabling the returning officer to form an opinion as to whether a person is qualified to vote, the returning officer may require the appropriate officer to furnish the returning officer with such information regarding the person as the returning officer may specify.

42 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 final roll.
- (2) An objection:
 - (a) must be in Form 3, and
 - (b) must state the grounds on which it is made, and
 - (c) must be signed by the objector, and
 - (d) must be lodged with the returning officer.
- (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 reject an objection.
- (7) If the returning officer accepts an objection, the returning officer must exclude from the 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 person's name is so excluded.

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Elections

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- (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.
- (10) For the purpose of enabling the returning officer to make a decision to accept or reject an objection to the inclusion of the name of a person in the final roll, the returning officer may require the appropriate officer to furnish the returning officer with such information regarding the person as the returning officer may specify.

43 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 exhibition of the roll, and the roll remains the final roll for the election.

Division 6 The ballot

44 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
 - (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in the final 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 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

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Part 3 Elections

- (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) In the case of an election where votes are to be counted as provided by Part 2 of the Sixth Schedule to the *Constitution Act 1902*, 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 the candidates’ 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 the candidates’ names in the order of the voter’s preferences for them.
- (4) In the case of an election where votes are to be counted in accordance with the “first past the post” method, the directions to voters must include a direction that:
- (a) the voter must, subject to paragraph (b), place a cross in the square set opposite the name of each candidate that the voter wishes to vote for, and
 - (b) the voter must not vote for more candidates than there are vacancies to be filled at the election.

45 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 final roll for the election:

- (a) a ballot-paper that is 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
- (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.

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Clause 46

Elections

Part 3

46 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.

47 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

48 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.
- (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 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.

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Part 3 Elections

- (3) The returning officer may reject a ballot-paper 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.

49 Ascertaining result of ballot

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

50 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.

51 Scrutiny of votes

- (1) The scrutiny of votes in a ballot is to be conducted as follows:
- (a) the returning officer is to produce, unopened, the envelopes containing the ballot-papers accepted for scrutiny,
 - (b) the returning officer is then to 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 have been placed in the ballot-box, the returning officer is then to unlock the ballot-box and remove the ballot-papers,
 - (d) the returning officer is then to examine each ballot-paper and reject those that are informal,
 - (e) the returning officer is then to 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 if:
- (a) 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) 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

Marketing of Primary Products Regulation 2005

Clause 52

Elections

Part 3

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- (c) it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper is not to be rejected as informal:
- (a) merely because of 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.

52 Counting of votes

- (1) If there is 1 person to be elected in the election:
- (a) the method of counting the votes so as to ascertain the result of the election is to be the method specified in the notice referred to in clause 27, being either:
- (i) the method provided by Part 2 of the Seventh Schedule to the *Constitution Act 1902*, or
- (ii) the "first past the post" method, that is, the candidate with the most votes is taken to be elected, and
- (b) for the purpose of applying the provisions of Part 2 of the Seventh Schedule to the *Constitution Act 1902* to the election (if required), 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 the election:
- (a) the method of counting the votes so as to ascertain the result of the election is to be the method specified in the notice referred to in clause 27, being either:
- (i) the method provided by Part 2 of the Sixth Schedule to the *Constitution Act 1902*, or
- (ii) the "first past the post" method, that is, the candidates with the most votes are taken to be elected, and

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Part 3 Elections

- (b) for the purpose of applying the provisions of Part 2 of the Sixth Schedule to the *Constitution Act 1902* to the election (if required):
- (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 1 more than the number of persons to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1.

53 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 appropriate officer, in writing, of the name of the candidate elected.

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Clause 54

Boards and Committees

Part 4

Part 4 Boards and Committees

Division 1 General provisions

54 Alternate members for elected members

- (1) An elected member of a board or committee may appoint an alternate to act in the office of the elected member:
 - (a) during the illness of the member, if the illness is likely to prevent the member from attending meetings of the board or committee for at least 4 months, or
 - (b) during the absence of the member, if the absence is likely to last for at least 4 months and is the subject of leave granted by the board or committee.
- (2) The appointment of an alternate member:
 - (a) must be in writing addressed to the secretary to the board or committee, and
 - (b) must contain the name, address and period of appointment of the alternate member, and
 - (c) must be signed and dated by the elected member.
- (3) The board or committee must advise the Minister of any such appointment of an alternate member.
- (4) The power of an elected member to appoint a person as an alternate member may be exercised any number of times during the term of office of the elected member.
- (5) An elected member may at any time remove from office an alternate member appointed by the elected member.
- (6) An alternate member ceases to hold office:
 - (a) on being removed from office by the elected member, or
 - (b) on the elected member ceasing to be a member, or
 - (c) on the expiry of the period of the alternate member's appointment,whichever first occurs.

55 Common seal of board or committee

- (1) The common seal of a board or committee must be kept by the secretary to the board or committee in such place as the board or committee may direct.

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Part 4 Boards and Committees

- (2) The common seal of a board or committee may be affixed to a document only:
- (a) in the presence of at least 2 members of the board or committee and the secretary to the board or committee, and
 - (b) with an attestation by the signatures of those members and the secretary of the fact of the affixing of the common seal.

56 Signing of documents not under seal

Any document requiring authentication by a board or committee may be sufficiently authenticated without the common seal of the board or committee if it is signed by:

- (a) at least one member of the board or committee and the secretary to the board or committee, or
- (b) at least 2 members of the board or committee.

Division 2 Special provisions for particular boards and committees

57 Rice Marketing Board may exempt unsuitable rice from automatic vesting

For the purposes of section 57 (1) (d) of the Act, sales and purchases or receipts of rice whose quality is such as to make it unsuitable for milling are prescribed as sales and purchases or receipts which the Rice Marketing Board for the State of New South Wales may exempt from the operation of section 56 of the Act.

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Clause 58

General

Part 5

Part 5 General

58 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 any poll or election, the decision of the returning officer on that matter is final.

59 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.

60 Concurrent polls and elections

Where the same voting qualifications apply in respect of a poll and an election:

- (a) a single roll may be prepared and used for the purposes of both the poll and the election, and
- (b) an application for enrolment in that roll may be made under clause 13 or 41, and
- (c) an objection against the inclusion in that roll of the name of any person may be made under clause 14 or 42.

61 Offences

A person must not:

- (a) vote, or attempt to vote, more than once in any poll or election, or
- (b) vote, or attempt to vote, in any poll or 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 any poll or election, or
 - (ii) in any document that the person furnishes for the purposes of any poll or election, or

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Part 5 General

- (d) apply for enrolment in respect of any poll or election in respect of which the person is already enrolled.

Maximum penalty: 0.1 penalty unit.

62 Notice of claim

For the purposes of section 59 (3) of the Act:

- (a) the prescribed form for a notice of claim referred to in that subsection is Form 6, and
- (b) the prescribed particulars to be included in the notice are the particulars required by Form 6.

63 Duties and liability of certain persons

For the purposes of section 151 (3) (b) of the Act (persons in prescribed positions to act honestly and exercise a reasonable degree of care and diligence), the position of secretary to a board or committee is a prescribed position.

64 Evidentiary provisions

For the purposes of section 158 (1) (e) of the Act (certificate purporting to be signed by prescribed officer to be evidence), the prescribed officer of a board or committee is the secretary to the board or committee.

65 Savings and transitional

- (1) Any act, matter or thing that, immediately before the repeal of the *Marketing of Primary Products (Polls and Elections) Regulation 2000* or the *Marketing of Primary Products (Boards and Committees) Regulation 2000*, had effect under either Regulation continues to have effect under this Regulation.
- (2) Clause 27 (3) (f) of this Regulation (which requires the publication of the method of counting the votes that will apply in an election) does not apply in respect of any election that is called before the commencement of this Regulation. Votes in any such election must be counted as provided for by the *Marketing of Primary Products (Polls and Elections) Regulation 2000* (as if it had not been repealed).

Marketing of Primary Products Regulation 2005

Qualifications for voting

Schedule 1

Schedule 1 Qualifications for voting

(Clause 4)

1 Definitions

In this Schedule:

current season, in relation to a poll or an election, means the season during which the calling of the poll or election occurs.

previous season means the period of 12 months commencing on 1 January in any year.

2 Rice

A producer of rice has the prescribed qualifications for the purposes of any poll or election relating to rice if the producer has:

- (a) during the current season, or
- (b) during the previous season,

sown to rice any land, within the area to which the poll or election relates, for the purpose of growing or producing rice for sale.

Marketing of Primary Products Regulation 2005

Schedule 2 Forms

Schedule 2 Forms

(Clause 3 (2) (a))

Form 1 Certificate

(Marketing of Primary Products Regulation 2005)

(Clauses 6 and 34)

I certify that this roll contains the full names (consecutively numbered and listed in alphabetical order) and addresses of those producers who, in my opinion, are entitled to vote in the poll*/election* in relation to 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:

* Delete whichever is inapplicable.

Form 2 Application for enrolment

(Marketing of Primary Products Regulation 2005)

(Clauses 13 and 41)

Surname:

Given names:

Postal Address:

Postcode:

Telephone No:

Address of property on which the primary product the subject of the poll*/election* is actually grown or produced for sale:

Local government area in which the property is situated:

I apply to be enrolled in the final roll for the following poll*/election* and in any subsequent poll or election [*specify the poll*/election* to which the application relates*]:

I am applying for enrolment:

- (a) * as the sole producer of the primary product,
- (b) * as the representative of a corporation on behalf of which the primary product is actually grown or produced for sale,
- (c) * as the representative of a partnership on behalf of which the primary product is actually grown or produced for sale,

Marketing of Primary Products Regulation 2005

Forms

Schedule 2

- (d) * as the representative of the trustees or legal personal representatives of a person or estate on behalf of whom or which the primary product is actually grown or produced for sale.

Particulars of corporation*/partnership*/trustee*/legal personal representative* in respect of whom or which the applicant is the representative (see paragraphs (b), (c) and (d) above)*:

Name:

Postal address:

Postcode:

I declare that I have*/ the producer that I represent has*, as at the calling of the poll*/election*, the prescribed qualifications (as specified in Schedule 1 to the *Marketing of Primary Products Regulation 2005*) in respect of the primary product the subject of the poll*/election*.

I further declare that, to the best of my knowledge, the information contained in this application is true.

Dated:

Signed:

* Delete whichever is inapplicable.

Form 3 Objection to enrolment

(Marketing of Primary Products Regulation 2005)

(Clauses 14 and 42)

I object to the inclusion in the final roll for the following poll*/election* [*specify the poll*/election* to which the objection relates*]:
of the name of [*name in full*] of [*postal 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:

* Delete whichever is inapplicable.

Form 4 Nomination of candidate

(Marketing of Primary Products Regulation 2005)

(Clause 30)

We nominate [*name in full*] of [*postal address*] as a candidate for the following election [*specify the election to which the nomination relates and the area or electoral district in which the election is to be held*]:

Marketing of Primary Products Regulation 2005

Schedule 2 Forms

We declare that we are each entitled to vote in the election.

Name in full: Address: Signature:

- 1
- 2
- 3
- 4
- 5
- 6

Note. This nomination must be completed by not less than 6 persons (other than the candidate), each of whom has the prescribed qualifications (as specified in Schedule 1 to the *Marketing of Primary Products Regulation 2005*) in respect of the election.

I [*name*] consent to being a candidate at the election to which this nomination relates.

Postal address:

Postcode:

Telephone No:

Date of birth:

Dated:

Signed:

Form 5 Statutory declaration

(Marketing of Primary Products Regulation 2005)

(Clause 33)

I, [*name*] of [*address*] do solemnly and sincerely declare that:

- 1 My full name is
- 2 My residential address and postcode is
- 3 My date of birth is
- 4 I am self-employed*/employed by [*employer name*]* as [*specify nature of employment*]
- 5 I hold the following qualifications (academic/trade/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

Marketing of Primary Products Regulation 2005

Forms

Schedule 2

Before me:

Justice of the Peace

[signature]

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 6 Claim for account of payment due

(Marketing of Primary Products Regulation 2005)

(Clause 62)

Name of board:

Address:

Name of claimant:

Address:

Nature of encumbrance:

Nature of commodity encumbered:

Date of delivery of commodity to board:

Name of person whose commodity is encumbered:

Address:

Name of person having the benefit of the encumbrance:

Address:

Particulars of any loan secured by the encumbrance, including the period of the loan and the period and amounts of instalments payable under the loan:

Amount due and unpaid under encumbrance:

Date of registration of encumbrance:

[signature of claimant]



New South Wales

Mount Panorama Motor Racing Regulation 2005

under the

Mount Panorama Motor Racing Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mount Panorama Motor Racing Act 1989*.

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

Explanatory note

This Regulation replaces, with minor changes only, the *Mount Panorama Motor Racing Regulation 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation:

- (a) regulates conduct within, and admission to, the Mount Panorama Circuit during race meetings and the erection of buildings and structures within the Circuit in connection with race meetings, and
- (b) makes provision with respect to a quorum for meetings of the Mount Panorama Motor Racing Advisory Committee and provides for deputies of members of the Committee and vacancies in membership of the Committee, and
- (c) prescribes events that are taken to be motor racing for the purposes of the *Mount Panorama Motor Racing Act 1989*, and
- (d) makes provision for the form of applications for permits to authorise motor racing at Mount Panorama, fees for permits under section 5 of the Act, and the time for applications for permits to be made, and
- (e) prescribes the Director-General of the Department of Tourism, Sport and Recreation as an authorised officer for the purpose of issuing certain evidentiary certificates under that Act.

This Regulation is made under the *Mount Panorama Motor Racing Act 1989*, including the definition of **motor racing** in section 3, and sections 14 and 15 (the general regulation-making power).

Mount Panorama Motor Racing Regulation 2005

Explanatory note

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

Mount Panorama Motor Racing Regulation 2005

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Mount Panorama Motor Racing Regulation 2005

under the

Mount Panorama Motor Racing Act 1989

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Mount Panorama Motor Racing Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Mount Panorama Motor Racing Regulation 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
 - Circuit** means the Mount Panorama Circuit.
 - Council** means the Bathurst City Council.
 - the Act** means the *Mount Panorama Motor Racing Act 1989*.
- (2) Notes included in the text of this Regulation do not form part of this Regulation.

Mount Panorama Motor Racing Regulation 2005

Clause 4

Regulation of conduct on Circuit

Part 2

Part 2 Regulation of conduct on Circuit

4 Application of Part

This Part applies to the Circuit while it is being used (on a day or days specified in a permit under the Act) for the purposes of, or in connection with, meetings for motor racing or associated events.

5 Entry

- (1) The Council may, by means of notices or the giving of directions, regulate the admission of persons or vehicles to the Circuit.
- (2) Without limiting subclause (1), such a notice or direction may impose conditions of entry in relation to:
 - (a) the payment of admission charges, or
 - (b) the possession or consumption of liquor.
- (3) A person must not do anything in wilful contravention of a notice or direction under this clause.
Maximum penalty: 5 penalty units.

6 Parking and driving

- (1) The Council may, by means of notices or barriers or the giving of directions, regulate the parking or driving of vehicles within the Circuit.
- (2) A person must not cause a vehicle to be parked or driven in wilful contravention of any such notice or direction or in wilful disregard of any such barrier.
Maximum penalty: 5 penalty units.
- (3) The Council:
 - (a) may from time to time fix a scale of charges for the parking of vehicles on the Circuit, and
 - (b) may demand and receive such charges from any person parking a vehicle on the Circuit.
- (4) The Council may direct a person to remove from the Circuit any unlawfully parked vehicle that is under the person's control.
- (5) A person must comply with a direction under subclause (4).
Maximum penalty: 5 penalty units.
- (6) A person must not drive any vehicle within the Circuit otherwise than on a road or track.
Maximum penalty: 5 penalty units.
- (7) For the purposes of this clause, *park* includes stand and wait.

Clause 7 Mount Panorama Motor Racing Regulation 2005

Part 2 Regulation of conduct on Circuit

7 Damage to vegetation and structures

A person must not, within the Circuit:

- (a) remove, uproot or cause damage to, or remove any part from, a shrub, plant, tree or other vegetation, or
- (b) damage, deface or destroy any sign, fence, gate, enclosure, barrier or other structure.

Maximum penalty: 5 penalty units.

8 Camping and erection of structures

(1) A person must not, within the Circuit:

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

Maximum penalty: 5 penalty units.

(2) A person who has erected or occupied or caused to be erected or occupied any tent, screen, awning, enclosure or other structure or thing contrary to this clause must, when required by the Council, immediately remove that tent, screen, awning, enclosure or other structure or thing.

Maximum penalty: 5 penalty units.

(3) If a person fails to comply with any such requirement, the Council:

- (a) may remove, or cause to be removed, the tent, screen, awning, enclosure or other structure or thing to the care of the person to whom the direction was given, or
- (b) may impound the tent, screen, awning, enclosure or other structure or thing.

(4) Property that is impounded under this clause is taken to be impounded under the *Impounding Act 1993* and is to be dealt with accordingly.

9 Building

(1) A person must not erect, extend or alter a building or structure on land within the Circuit otherwise than:

- (a) with the consent of the Council, and
- (b) in accordance with:
 - (i) the technical provisions of the State's building laws (within the meaning of section 116G of the *Environmental Planning and Assessment Act 1979*), and
 - (ii) such other conditions (not inconsistent with those provisions) as the Council may impose on its consent.

Maximum penalty: 5 penalty units.

Mount Panorama Motor Racing Regulation 2005

Clause 10

Regulation of conduct on Circuit

Part 2

-
- (2) A person must not bring on to land within the Circuit any materials or equipment for use in the erection, extension or alteration of a building or structure, otherwise than in accordance with the consent of the Council.

Maximum penalty: 5 penalty units.

10 Other conduct prohibited

A person must not:

- (a) allow any animal in the person's custody or under the person's control to enter on or remain within the Circuit, or
- (b) erect any hoarding or notice, or display or distribute any advertising matter, sign, bill, poster or other matter within the Circuit, or
- (c) sell, offer for sale or distribute any service, article or thing within the Circuit, or
- (d) conduct any entertainment within the Circuit, or
- (e) do or say anything calculated to hinder or interfere with the proper progress of the motor racing or associated events within the Circuit, or
- (f) deposit litter within the Circuit except in receptacles provided for that purpose, or
- (g) obstruct any person in the performance of that person's work or duties within the Circuit, or
- (h) climb or jump over any fence, gate, enclosure, barrier or other structure within the Circuit.

Maximum penalty: 5 penalty units.

11 Exclusion of public

- (1) The Council may, by means of notices or barriers, exclude the public from any part of the Circuit.
- (2) A person must not enter any part of the Circuit from which the public has been so excluded.

Maximum penalty: 5 penalty units.

12 Removal of public

- (1) The Council may direct a person to leave the Circuit:
 - (a) if the person is unlawfully within the Circuit, or
 - (b) if the person is contravening any provision of this Regulation, or

Clause 13 Mount Panorama Motor Racing Regulation 2005

Part 2 Regulation of conduct on Circuit

(c) if the person is causing annoyance or inconvenience to members of the public who are lawfully and peaceably within the Circuit.

(2) A person must comply with a direction under this clause.

Maximum penalty: 5 penalty units.

(3) The Council may remove from the Circuit any person who fails to comply with a direction under this clause.

13 Exercise of Council's powers

The Council may authorise any member of staff of the Council, any police officer or any other person to exercise a power conferred on the Council by this Part, and the power may be exercised accordingly.

14 Hindering and obstructing

A person must not hinder or obstruct:

(a) any person in the exercise of a power conferred on the person by or under this Part, or

(b) any contractor to the Council in the performance of the contractor's work.

Maximum penalty: 5 penalty units.

15 Certain acts and omissions not to be offences

(1) A person does not commit an offence under this Part if the act or omission giving rise to the offence was done or omitted:

(a) by a member of staff of the Council in the exercise of his or her employment as such, or

(b) in accordance with the conditions (whether express or implied) of a lease or licence granted by the Council, or

(c) under the direction or with the consent of the Council.

(2) The consent of the Council referred to in this clause may be given generally or in a particular case.

Mount Panorama Motor Racing Regulation 2005

Clause 16

Mount Panorama Motor Racing Advisory Committee

Part 3

Part 3 Mount Panorama Motor Racing Advisory Committee

16 Quorum

The quorum for a meeting of the Advisory Committee is a majority of the members of the Committee as constituted for the time being.

17 Appointment of deputies

- (1) If a member of the Advisory Committee is appointed as the representative of a body or organisation, the body or organisation may, from time to time, nominate a person to be the deputy of the member.
- (2) The Council may, from time to time, nominate a person to be the deputy of the Chairperson of the Advisory Committee.
- (3) The Commissioner of Police may, from time to time, nominate a person to be the deputy of a member appointed under section 10 (4) (b) of the Act.
- (4) The Minister may, from time to time, nominate a person to be the deputy of a member (other than a member referred to in subclause (1), (2) or (3)).
- (5) A nomination under this clause may be revoked by the person, body or organisation who made the nomination.

18 Duties of deputies

- (1) In the absence of a member of the Advisory Committee, the member's deputy:
 - (a) may act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is taken to be a member.
- (2) The deputy of the member who is the Chairperson does not have the member's functions as Chairperson merely by virtue of being the member's deputy.

19 Vacancy in office of member

- (1) The office of a member of the Advisory Committee becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or

| | |
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- (d) is removed from office by the Minister under this clause or by the Governor under Chapter 5 of the *Public Sector Employment and Management Act 2002*, or
 - (e) is absent from 2 consecutive meetings of the Advisory Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Advisory Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Advisory Committee for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove a member from office at any time.
- (3) If the office of a member becomes vacant, a person is, subject to the Act, to be appointed to fill the vacancy.

Mount Panorama Motor Racing Regulation 2005

Clause 20

Miscellaneous

Part 4

Part 4 Miscellaneous

20 Prescribed events

For the purposes of the definition of *motor racing* in section 3 of the Act, the prescribed kinds of events are:

- (a) races between motor cars, and
- (b) races between motor cycles, and
- (c) races between motor cycles with sidecars, and
- (d) races between karts.

21 Permits

- (1) An application by the Council for a permit under section 5 of the Act is to be made in the form approved by the Director-General of the Department of Tourism, Sport and Recreation.
- (2) The application must be lodged with the Minister at least 8 weeks before the date of the proposed meeting or meetings to which the application relates.
- (3) The fee for a permit is \$500.

22 Prescribed officer for issue of certain evidentiary certificates

The prescribed officer for the purposes of section 14 of the Act is the Director-General of the Department of Tourism, Sport and Recreation.

23 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Mount Panorama Motor Racing Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.



New South Wales

Motor Accidents Compensation Regulation 2005

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 remake, with minor changes only, the provisions of the *Motor Accidents Compensation Regulation (No 2) 1999*. That Regulation will be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for the following matters:

- (a) to fix the maximum amounts payable by insurers for certain treatment provided in connection with motor accidents covered by the compulsory third-party insurance scheme under the *Motor Accidents Compensation Act 1999*, and
- (b) to fix maximum costs for legal services provided in connection with claims relating to motor accidents covered by that scheme, and
- (c) to fix maximum costs for the provision by medical practitioners of certain medico-legal services in connection with such claims, and
- (d) to limit the costs payable to a claimant in respect of expert witnesses giving evidence or providing reports on the claimant's behalf, and
- (e) to provide for the assessment of costs by a claims assessor under the Act, and
- (f) to prescribe the classes of motor vehicles that are taken, for the purposes of a third-party policy of insurance under the *Motor Accidents Compensation Act 1999*, to be subject to an unregistered vehicle permit for the purposes of section 10A of that Act, and
- (g) to prescribe the Australian Prudential Regulation Authority as an authority to which protected information may be divulged for the purposes of section 217 of the *Motor Accidents Compensation Act 1999*.

Motor Accidents Compensation Regulation 2005

Explanatory note

The amounts referred to in paragraph (a) are fixed by reference to the List of Medical Services & Fees published by the Australian Medical Association and effective from 1 November 2004.

This Regulation is made under the *Motor Accidents Compensation Act 1999*, including section 56 (Maximum fees payable by insurers for medical treatment and other treatment or services not provided at hospitals or for treatment at private hospitals), Chapter 6 (Costs), section 228 (the general regulation-making power) and clause 2 of Schedule 5 (which allows the regulations to contain provisions of a savings or transitional nature consequent on the enactment of the Act).

Motor Accidents Compensation Regulation 2005

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Motor Accidents Compensation Regulation 2005

Clause 1

Preliminary

Part 1

Motor Accidents Compensation Regulation 2005

under the

Motor Accidents Compensation Act 1999

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Motor Accidents Compensation Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Motor Accidents Compensation Regulation (No 2) 1999* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Motor Accidents Compensation Act 1999*.

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

Clause 4 Motor Accidents Compensation Regulation 2005

Part 2 Fees payable by insurers for certain treatment

Part 2 Fees payable by insurers for certain treatment

4 Definition of “AMA List”

- (1) In this Part:
AMA List means the document called *List of Medical Services & Fees* published by the Australian Medical Association and dated 1 November 2004 as amended or replaced, from time to time, by a document recognised by the Authority in accordance with subclause (2).
- (2) The Authority may, by notice published in the Gazette, recognise a document, that has been published by the Australian Medical Association, as an amendment to, or replacement of, the AMA List.

5 Application of Part

- (1) This Part applies in relation to treatment to which section 56 of the Act applies, being treatment:
 - (a) that is provided to an injured person by a health care professional, and
 - (b) in respect of which a fee is specified in the AMA List.
- (2) However, this Part does not apply in relation to treatment received by an injured person before 17 December 1999 (being the date of commencement of the *Motor Accidents Compensation Regulation (No 2) 1999*).

6 Maximum amounts payable by insurer for certain treatment

The maximum amount for which an insurer is liable in respect of any claim for fees payable for treatment to which this Part applies is the amount listed, in respect of the treatment concerned, in the AMA List.

Note. Section 56 does not apply to treatment that is provided at a hospital (whether to an in-patient or an out-patient) and for which any payment is required to be made to the hospital and not to the provider of the treatment. The section also applies to the fee payable to a private hospital for any treatment at the hospital.

Motor Accidents Compensation Regulation 2005

Clause 7

Costs

Part 3

Part 3 Costs

Division 1 Unregulated costs

7 Costs not regulated by this Part

Costs referred to in this Part (clause 15 excepted) do not include any of the following:

- (a) fees for accident investigators' reports or accident reconstruction reports,
- (b) fees for accountants' reports,
- (c) fees for reports from health care professionals,
- (d) fees for other professional reports relating to treatment or rehabilitation (for example, architects' reports concerning house modifications),
- (e) fees for interpreter or translation services,
- (f) court fees,
- (g) travel costs and expenses of the claimant in the matter for attendance at medical examinations, the Claims Assessment and Resolution Service or a court,
- (h) witness expenses at the Claims Assessment and Resolution Service or a court.

Division 2 Maximum costs recoverable by legal practitioners

8 Application of Division

- (1) This Division is made under section 149 of the 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) legal costs, and
- (b) costs for matters that are not legal services but are related to proceedings in a motor accidents matter.

Note. Section 149 (2) of the *Motor Accidents Compensation Act 1999* 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 149.

Clause 9 Motor Accidents Compensation Regulation 2005

Part 3 Costs

- (2) This Division does not affect costs recovered before 17 December 1999 (being the date of commencement of the *Motor Accidents Compensation Regulation (No 2) 1999*) or for which a bill of costs was issued before that commencement.

Note. Section 147 (2) of the *Motor Accidents Compensation Act 1999* provides that expressions in Chapter 6 (Costs) 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).

9 Fixing of maximum costs recoverable by legal practitioners

- (1) The maximum costs for:
- (a) legal services provided by a legal practitioner to a claimant or to an insurer in any motor accidents matter, and
 - (b) matters that are not legal services but are related to proceedings in a motor accidents matter,

are the costs set out in Schedule 1, except as otherwise provided by this Part.

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.

- (2) If there is a change in the legal practitioner retained by a claimant or insurer in a motor accidents matter, 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 claimant or insurer concerned) may refer the dispute to a claims assessor for determination (unless the dispute arose in a matter in which, under section 92 of the Act, the claim is exempt from assessment).
- (4) A legal practitioner has the same right of appeal against a determination made under subclause (3) as the practitioner would have under section 208L or 208M of the *Legal Profession Act 1987* if the determination were a determination made by a costs assessor under Part 11 of that Act in relation to a bill of costs.

10 Excluded matters

- (1) The maximum costs set out in Schedule 1 do not apply in respect of a matter in which, under section 92 of the Act, the claim is exempt from assessment.

Motor Accidents Compensation Regulation 2005

Clause 11

Costs

Part 3

- (2) An exclusion under this clause in respect of a matter involving a claim referred to in section 92 (1) (b) of the Act extends to any costs incurred before the matter became exempt.

11 Contracting out—solicitor/client costs

- (1) This clause applies in respect of costs in a motor accidents matter 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 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 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 Act in the absence of a costs agreement.
- (2) Schedule 1 does not apply to the costs concerned to the extent that they are payable on a solicitor and client basis.

Division 3 Maximum fees recoverable by medical practitioners for medico-legal services

12 Application of Division

- (1) This Division is made under section 150 of the Act and applies in respect of fees for the provision of medical reports, and appearances as witnesses, by medical practitioners.
- Note.** Section 150 (2) of the *Motor Accidents Compensation Act 1999* provides that a medical practitioner is not entitled to be paid or recover any fee for providing a service that exceeds any maximum fee fixed under section 150 for the provision of the service.
- (2) This Division does not affect fees recovered before 17 December 1999 (being the date of commencement of the *Motor Accidents Compensation Regulation (No 2) 1999*) or for which a bill was issued before that commencement.

Clause 13 Motor Accidents Compensation Regulation 2005

Part 3 Costs

13 Fixing of maximum fees recoverable by medical practitioners for medico-legal services

The maximum fees for providing a service specified in Schedule 2 in relation to any motor accident are the fees set out in that Schedule for that service, except as otherwise provided by this Part.

Division 4 Costs in relation to expert witnesses

14 Limit on costs for expert witnesses

- (1) Costs are not to be included in an assessment or award of damages in respect of any expert witness giving evidence, or providing a report, on behalf of the claimant in relation to a claims assessment or in court proceedings under the Act, except for costs in respect of:
 - (a) one medical expert in any speciality (unless there is a substantial issue as to a matter referred to in section 58 (1) (c) or (d) of the Act—in which case costs are payable in respect of 2 medical experts in any speciality relevant to the injury concerned), and
 - (b) 2 experts of any other kind.
- (2) Subclause (1) does not apply if the claims assessor or court concerned agrees that costs are payable in respect of a greater number of expert witnesses in the matter.
- (3) This clause extends to costs incurred in connection with medical assessments.

Division 5 Assessment of costs by claims assessor

15 Claims assessor may assess costs

- (1) In making an assessment and specifying damages under section 94 of the Act in respect of a claim, a claims assessor may include in the assessment an assessment of the claimant's costs (including costs for legal services referred to in Schedule 1 and fees for medico-legal services referred to in Schedule 2) in the matter.
- (2) An assessment of those costs may also be made (whether or not an assessment has been made under subclause (1)) if a court does not determine a matter after the issue of a certificate under section 94 but remits the matter to the Motor Accidents Claims Assessment and Resolution Service for further assessment.
- (3) In making an assessment under this clause, a claims assessor:
 - (a) may have regard to the amount of any written offer of settlement made by either party to the matter, and

Motor Accidents Compensation Regulation 2005

Clause 16

Costs

Part 3

-
- (b) must give effect to:
 - (i) any requirement of a court under section 151 (3) of the Act, and
 - (ii) Division 4 of this Part, and
 - (c) must have regard to the matters set out in sections 208A (1) and 208B of the *Legal Profession Act 1987*.
 - (4) The amount of any assessment under this clause must not exceed the relevant amounts set out in Schedules 1 and 2.
 - (5) A claimant or an insurer (or a legal practitioner retained by a claimant or an insurer in respect of the relevant claim) has the same right of appeal against an assessment made under this clause as the claimant, insurer or legal practitioner would have under section 208L or 208M of the *Legal Profession Act 1987* if the assessment were a determination made by a costs assessor under Part 11 of that Act in respect of a bill of costs.

Division 6 Goods and services tax

16 GST may be added to costs

- (1) Despite the other provisions of this Part, a cost fixed by this Part 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 medical practitioner 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 medical practitioner in respect of the legal or other 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.

Clause 17 Motor Accidents Compensation Regulation 2005

Part 4 Miscellaneous

Part 4 Miscellaneous

17 Current third-party insurance policies issued under Motor Accidents Act 1988

- (1) A third-party policy of insurance issued under the *Motor Accidents Act 1988* that has effect for any period on or after 17 December 1999 (being the date of commencement of the *Motor Accidents Compensation Regulation (No 2) 1999*) is taken, in respect of any motor accident occurring on or after that commencement, to be a third-party policy of insurance issued under the *Motor Accidents Compensation Act 1999*.
- (2) Any such policy may be cancelled on or after 17 December 1999 only in accordance with the provisions of the *Motor Accidents Compensation Act 1999*.

Note. See clause 6 of the *Motor Accidents Compensation Regulation 1999* (now repealed) and section 30 (2) of the *Interpretation Act 1987* in relation to third-party policies of insurance issued under the *Motor Accidents Act 1988* and having effect for any part of the period commencing on 5 October 1999 (and ending on 17 December 1999).

18 Motor vehicles taken to be subject to unregistered vehicle permits

- (1) For the purposes of section 10A of the Act, the following classes of motor vehicles are prescribed:
 - (a) motor vehicles:
 - (i) that are used to perform agricultural tasks (for example, tractors and harvesters), and
 - (ii) in respect of which approval for the placement of identification plates has not been given under section 10A of the *Motor Vehicle Standards Act 1989* of the Commonwealth,
 - (b) motor vehicles:
 - (i) that are designed for use solely over snow, and
 - (ii) in respect of which approval for the placement of identification plates has not been given under section 10A of the *Motor Vehicle Standards Act 1989* of the Commonwealth,
but only during such time as the motor vehicles are within the boundaries of Kosciuszko National Park,
 - (c) motor vehicles that:
 - (i) were manufactured 30 or more years ago, and
 - (ii) are used on a road solely in the course of, or as an incident to, an activity of an organisation that is identified in the records of the RTA as an historic vehicle club,

Motor Accidents Compensation Regulation 2005

Clause 18

Miscellaneous

Part 4

-
- (d) motor vehicles that:
 - (i) weigh more than 250 kg when unladen, and
 - (ii) are designed or used solely for cutting grass or for purposes incidental to cutting grass,
 - (e) motor vehicles that:
 - (i) are used solely for the purposes of road construction, maintenance or repair, and
 - (ii) are not used on a road otherwise than while at, or proceeding to or returning from, the place where the road construction, maintenance or repair is carried out,
 - (f) motor vehicles that:
 - (i) are classified by the RTA as earthwork plant or industrial plant, and
 - (ii) are subject to a conditional registration in consequence of that classification,
 - (g) motor vehicles that are subject to a conditional registration on the basis that they are to be used solely on Stockton Beach for recreation purposes,
 - (h) motor vehicles that are motorised buggies or carts and are designed and used for the purpose of:
 - (i) carrying golfers, spectators or golfing equipment on a golf course, or
 - (ii) carrying persons in a holiday resort or retirement village or the like,
 - (i) motor vehicles that:
 - (i) are designed or used solely for the conveyance of a person with a disability that substantially impairs the person's mobility, and
 - (ii) weigh more than 110 kg when unladen, and
 - (iii) are capable of travelling at more than 10 kilometres an hour,
 - (j) motor vehicles that are trackless trains,
 - (k) any other motor vehicles that have been granted full exemption from:
 - (i) motor vehicle tax within the meaning of the *Motor Vehicles Taxation Act 1988* (under section 17 (1) (p) of that Act), or
 - (ii) charges within the meaning of the *Road Transport (Heavy Vehicle Registration Charges) Act 1995* (under section 30 (2) of that Act).

Clause 19 Motor Accidents Compensation Regulation 2005

Part 4 Miscellaneous

- (2) Section 10A (1) of the Act applies, from 28 February 2003 (being the date of commencement of the *Motor Accidents Compensation Amendment (Unregistered Vehicle Permits) Regulation 2003*), to a vehicle referred to in section 10A (1) (a)–(c) that became subject to a conditional registration on or after 20 May 2002 and before 28 February 2003.
- (3) In this clause, *conditional registration* means a conditional registration under the *Road Transport (Vehicle Registration) Act 1997*.

19 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.

20 Savings

Any act, matter or thing that had effect under the *Motor Accidents Compensation Regulation (No 2) 1999* immediately before the commencement of this Regulation is taken to have effect under this Regulation.

Motor Accidents Compensation Regulation 2005

Maximum costs for legal services

Schedule 1

Schedule 1 Maximum costs for legal services

(Clause 9 (1))

1 Costs determined by reference to certain stages in the matter

- (1) The maximum costs for legal services provided for a stage of a motor accidents matter set out in Column 1 of 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 the claims assessment is issued under section 94 of the Act, the costs are those set out in 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 Tables 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).

Table A

| Column 1 | Column 2 |
|---|--|
| Stage | Costs |
| 1 For assistance in completing an accident notification form | Nil (except, in respect of a legal practitioner acting for a claimant, in so far as the assistance forms part of stage 2) |
| 2 From the acceptance of the retainer to the preparation and service of a notice of claim under section 72 of the Act (including the provision of all relevant particulars about the claim to the insurer, even if those particulars are requested after the claim is served) | (a) in the case of a legal practitioner acting for a claimant—\$240 (b) in the case of a legal practitioner acting for an insurer—nil |
| 3 From service of the notice of claim under section 72 of the Act to the preparation and service of a response to insurer's offer of settlement under section 82 of the Act | (a) in the case of a legal practitioner acting for a claimant—\$350 (b) in the case of a legal practitioner acting for an insurer—nil |

Motor Accidents Compensation Regulation 2005

Schedule 1 Maximum costs for legal services

| Column 1 | Column 2 |
|---|--|
| Stage | Costs |
| 4 If settlement occurs without the issue of a certificate under section 94 of the Act—from service of the response to the insurer's offer of settlement under section 82 of the Act to finalisation of the matter | <p>In addition to the \$590 specified for stages 1 and 2 (if chargeable):</p> <p>(a) if the settlement amount is \$20,000 or less and the insurer wholly admitted liability for the claim—\$590</p> <p>(b) if the settlement amount is \$20,000 or less and the insurer denied liability for up to 25% of the claim—10% of the settlement amount</p> <p>(c) if the settlement amount is more than \$20,000 but less than \$50,001 and the insurer wholly admitted liability for the claim—\$590 plus 12% of every dollar of the settlement amount over \$20,000</p> <p>(d) if the settlement amount is more than \$20,000 but less than \$50,001 and the insurer denied liability for up to 25% of the claim—\$2,400 plus 12% of every dollar of the settlement amount over \$20,000</p> <p>(e) if the settlement amount is \$50,001 or more but less than \$100,001 and the insurer wholly admitted liability for the claim—\$4,800 plus 10% of every dollar of the settlement amount over \$50,000</p> <p>(f) if the settlement amount is \$50,001 or more but less than \$100,001 and the insurer denied liability for up to 25% of the claim—\$6,600 plus 10% of every dollar of the settlement amount over \$50,000</p> |

Motor Accidents Compensation Regulation 2005

Maximum costs for legal services

Schedule 1

| Column 1 | Column 2 |
|--|---|
| Stage | Costs |
| | (g) if the settlement amount is \$100,001 or more and the insurer wholly admitted liability for the claim—\$10,600 plus 2% of every dollar of the settlement amount over \$100,000 |
| | (h) if the settlement amount is \$100,001 or more and the insurer denied liability for up to 25% of the claim—\$12,400 plus 2% of every dollar of the settlement amount over \$100,000 |
| 5 If settlement occurs after the issue of a certificate under section 94 of the Act but without the commencement of court proceedings—from the issue of the certificate to finalisation of the matter | The total of the following: (a) an amount determined, in accordance with stage 4, by reference to the amount of the assessment as if that assessment were the amount of the settlement referred to in stage 4, (b) 2% of the assessment |
| 6 If the matter is finalised after the commencement of court proceedings (whether by way of settlement or an award of damages)—from the issue of the certificate under section 94 of the Act to finalisation of the matter | The total of the following: (a) an amount determined under stage 5, (b) 2% of the settlement or award |

Motor Accidents Compensation Regulation 2005

Schedule 1 Maximum costs for legal services

Table B

| Column 1 | Column 2 |
|---|---|
| Stage | Costs |
| 1 Advice on the issue of the certificate under section 94 of the Act | \$300 |
| 2 From the giving of the advice on the certificate issued under section 94 of the Act to finalisation of matter by settlement or award of damages | In addition to the \$300 specified for stage 1: <ul style="list-style-type: none"> (a) if the settlement amount or award is \$20,000 or less—nil (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 (c) if the settlement amount or award is \$50,001 or more but less than \$100,001—\$3,500 plus 8% of every dollar of the settlement amount or award over \$50,000 (d) if the settlement amount or award is \$100,001 or more—\$8,200 plus 2% of every dollar of the settlement amount or award over \$100,000 |

2 Other costs for legal services

- (1) Maximum costs for legal services provided in motor accidents matters may include (in addition to the costs for legal services provided for a stage in the matter, as referred to in clause 1) the costs set out in the Table to this clause.

Motor Accidents Compensation Regulation 2005

Maximum costs for legal services

Schedule 1

- (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.

Table

| Nature of costs | Maximum costs |
|---|---|
| Costs associated with a medical dispute under Part 3.4 of the Act, as allowed by the claims assessor | up to \$600 but not exceeding \$1,400 in respect of any one claim, regardless of the number or kind of disputes |
| Costs associated with a dispute referred to in section 96 of the Act, as allowed by the claims assessor | up to \$700 in respect of any one claim, regardless of the number or kind of disputes |
| Cost of representation at an assessment conference under section 104 of the Act: | |
| (a) flat fee | \$475 |
| (b) additional amount, at the claims assessor's discretion, if the conference exceeds 2 hours | up to \$150 per hour for each hour (or part of an hour) in excess of 2 hours |
| Cost of representation in court, per day: | |
| (a) advocate other than senior counsel | \$1,750 |
| (b) senior counsel | \$2,550 |
| Cost of conference directly related to an assessment of the claim or a court hearing, per hour (or part of an hour) | \$150 |

3 Country loadings

- (1) An advocate whose principal chambers or offices are in the Sydney Metropolitan area is entitled, in respect of proceedings heard or partially heard in a town outside that area, to a loading for that town in accordance with the Table to this clause. If proceedings take place at two or more towns outside that area, the loading payable is that appropriate to the town that is the farther or farthest from those chambers or offices.
- (2) An advocate whose principal chambers or offices are in a town outside the Sydney Metropolitan area is entitled, in respect of proceedings heard or partially heard in the Sydney Metropolitan area, to a loading for that town in accordance with the Table to this clause.

Motor Accidents Compensation Regulation 2005

Schedule 1 Maximum costs for legal services

- (3) An advocate whose principal chambers or offices are in a town outside the Sydney Metropolitan area is entitled, in respect of proceedings heard or partially heard at another such town, to a loading for that other town in accordance with the Table to this clause. If proceedings take place at two or more towns outside that area, the loading payable is that appropriate to the town that is the farther or farthest from those chambers or offices.
- (4) For the purposes of this clause, if a town is not included in the Table to this clause, the loading for that town is to be the loading for the nearest town that is so included.
- (5) If an advocate holds more than one brief in respect of proceedings heard at a place on any one day and a loading is applicable under this item, the loading is to be divided equally between those briefs in respect of which an advocate's fees are awarded or payable.

Table

| Town | Loading \$ | Town | Loading \$ |
|---------------|-------------------|------------------------------------|-------------------|
| Albury | 842 | Dubbo | 716 |
| Armidale | 772 | Forbes | 716 |
| Bateman's Bay | 771 | Glen Innes | 680 |
| Bathurst | 612 | Gosford | 205 |
| Bega | 931 | Goulburn | 506 |
| Bourke | 1329 | Grafton | 833 |
| Broken Hill | 1435 | Griffith | 685 |
| Campbelltown | 73 | Gundagai | 804 |
| Casino | 868 | Gunnedah | 792 |
| Cessnock | 479 | Hay | 886 |
| Cobar | 1222 | Inverell | 796 |
| Coffs Harbour | 680 | Katoomba | 278 |
| Condobolin | 1035 | Kempsey | 733 |
| Cooma | 1027 | Lismore | 766 |
| Coonamble | 990 | Lithgow | 318 |
| Cootamundra | 702 | Maitland (including East Maitland) | 479 |
| Cowra | 540 | Moree | 718 |
| Deniliquin | 905 | Moruya | 601 |

Motor Accidents Compensation Regulation 2005

Maximum costs for legal services

Schedule 1

| Town | Loading \$ | Town | Loading \$ |
|--------------|-------------------|----------------|-------------------|
| Moss Vale | 331 | Port Macquarie | 617 |
| Mudgee | 571 | Queanbeyan | 613 |
| Murwillumbah | 886 | Singleton | 736 |
| Muswellbrook | 508 | Tamworth | 714 |
| Narrabri | 666 | Taree | 571 |
| Narrandera | 662 | Tweed Heads | 832 |
| Newcastle | 479 | Wagga Wagga | 634 |
| Nowra | 479 | Wentworth | 1344 |
| Nyngan | 1138 | Wollongong | 303 |
| Orange | 545 | Yass | 539 |
| Parkes | 737 | Young | 702 |
| Penrith | 73 | | |

4 Interstate loadings

- (1) An advocate whose principal chambers or offices are in New South Wales is entitled, in respect of proceedings heard or partially heard in another State or Territory, to such reasonable loading as is determined by the court or the claims assessor.
- (2) If an advocate holds more than one brief in respect of proceedings heard at a place on any one day and a court or assessor determines that a loading is applicable under this item, the loading is to be divided equally between those briefs in respect of which an advocate's fees are awarded or payable.

Motor Accidents Compensation Regulation 2005

Schedule 2 Maximum fees for medico-legal services

Schedule 2 Maximum fees for medico-legal services

(Clause 13)

\$

Appearances as witnesses

- | | | |
|-----|--|--------------------|
| 1 | Medical practitioners and other medical professionals called to give evidence other than expert evidence, per hour (or proportionately if not for a full hour) to a maximum of \$488 | 247 |
| 2 | Medical practitioners and other medical professionals called to give expert evidence: | |
| (a) | for the first one and a half hours (including time travelling to the Court from the medical professional's home, hospital, place of practice, office or other place and return to that place from the Court) | 572 |
| (b) | for every full hour after the first hour and a half (or proportionately if not for a full hour) to a maximum of \$1,976 | 247 |
| 3 | Travelling allowance in connection with appearance as witness | 0.35 per kilometre |
| 4 | Accommodation and meals in connection with appearance as witness | reasonable costs |

Medical reports

- | | | |
|-----|---|-----|
| 5 | Report (in the form, if any, provided for in the MAA Medical Guidelines) made by an attending general practitioner: | |
| (a) | if a re-examination of the patient is not required | 121 |
| (b) | if a re-examination of the patient is required | 184 |
| 6 | Report (in the form, if any, provided for in the MAA Medical Guidelines) made by an attending specialist: | |
| (a) | if a re-examination of the patient is not required | 247 |
| (b) | if a re-examination of the patient is required | 326 |

Motor Accidents Compensation Regulation 2005

Maximum fees for medico-legal services

Schedule 2

| | \$ |
|---|---|
| 7 Report (in the form, if any, provided for in the MAA Medical Guidelines) made by a specialist who has not previously treated the patient: | |
| (a) if an examination of the patient is not required | 326–410 |
| (b) if an examination of the patient is required | 383–677 (depending, in both cases, on the complexity of the matter, the number of documents to be studied and the amount of research required) |
| 8 Charges for copying medical reports | 1 per page |
| Cancellation fee | |
| 9 Fee if appearance or medical report is not required | No more than 50% of the relevant amount specified in this Table |



New South Wales

Motor Vehicle Sports (Public Safety) Regulation 2005

under the

Motor Vehicle Sports (Public Safety) Act 1985

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Vehicle Sports (Public Safety) Act 1985*.

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

Explanatory note

The object of this Regulation is to remake, with only minor changes in substance, the provisions of the *Motor Vehicle Sports (Public Safety) Regulation 1999* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) applications for, and conditions of, licences for the use of a ground to hold race meetings,
- (b) alteration of the ground used to hold race meetings,
- (c) access to the ground during race meetings,
- (d) general provisions for the safety of persons during race meetings,
- (e) the membership of advisory committees established under the *Motor Vehicle Sports (Public Safety) Act 1985* and the functions of the Motor Vehicle Sports Advisory Committee (formerly the Licensing Advisory Committee) so established.

In particular, this Regulation prescribes as conditions of a licence the requirement that the licensee:

- (a) report accidents at the licensee's racing ground that involve the death or injury of a person, and
- (b) obtain the approval of the Director-General of the Department of Tourism, Sport and Recreation for any alteration of the configuration of the track at the licensee's racing ground.

Motor Vehicle Sports (Public Safety) Regulation 2005

Explanatory note

This Regulation is made under the *Motor Vehicle Sports (Public Safety) Act 1985*, including sections 4 (Licences), 6 (Conditions of licences), 16 (Advisory committees) and 17 (the general regulation-making power).

Motor Vehicle Sports (Public Safety) Regulation 2005

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Motor Vehicle Sports (Public Safety) Regulation 2005

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Motor Vehicle Sports (Public Safety) Regulation 2005

Clause 1

Preliminary

Part 1

Motor Vehicle Sports (Public Safety) Regulation 2005

under the

Motor Vehicle Sports (Public Safety) Act 1985

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Motor Vehicle Sports (Public Safety) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Motor Vehicle Sports (Public Safety) Regulation 1999* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

development consent has the same meaning as it has in the EP&A Act.

Director-General means the Director-General of the Department of Tourism, Sport and Recreation.

ground means a motor vehicle racing ground.

local Council, in relation to a ground, means the Council for the local government area in which the ground is situated.

official, in relation to a meeting, means a person appointed by the licensee, promoter or organisation conducting the meeting to assist with the conduct of that meeting.

paddock area means any part of a ground set aside as a paddock area under clause 15 and notified by signs erected on or near that part.

pit area means any part of a ground set aside as a pit area under clause 14 and notified by signs erected on or near that part.

race meeting means a meeting for motor vehicle racing and includes practice for any such meeting.

the Act means the *Motor Vehicle Sports (Public Safety) Act 1985*.

the EP&A Act means the *Environmental Planning and Assessment Act 1979*.

| | |
|----------|--|
| Clause 3 | Motor Vehicle Sports (Public Safety) Regulation 2005 |
| Part 1 | Preliminary |

track means the part of a ground approved by the Minister, by notice in writing to the licensee of a ground, for use by motor vehicles for motor vehicle racing.

unauthorised area means any part of a ground designated an unauthorised area by the Minister under clause 18.

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

Motor Vehicle Sports (Public Safety) Regulation 2005

Clause 4

Licences and motor vehicle racing grounds

Part 2

Part 2 Licences and motor vehicle racing grounds

4 Interest in land to be held by licensee

For the purposes of section 4 of the Act, an interest that confers on the holder of the interest the right to immediate possession of the land is a prescribed interest in land.

5 Application for issue of licence

An application for the issue of a licence for a ground must be made to the Director-General in the form approved by the Director-General and be accompanied by the following:

- (a) a certificate from the local Council:
 - (i) stating that the development consent is not necessary for the use of the ground for the purpose of motor vehicle racing, or
 - (ii) giving particulars of the development consent granted by the Council for the use of the ground for that purpose and of any conditions imposed on that consent,
- (b) evidence that the applicant has the right to immediate possession of the land to be used as the ground,
- (c) evidence that the applicant is eligible to effect public risk insurance cover referred to in clause 1 of Schedule 1,
- (d) 3 copies of the plans of, and specifications for, the ground, drawn to scale and showing details of the following:
 - (i) the location of the ground, including details of access to the ground from roads or road related areas,
 - (ii) spectator areas and spectator fencing,
 - (iii) the length, width, composition and location of the track (unless the application is for a licence for an enduro circuit),
 - (iv) any safety fences and other safety devices, such as sand traps, embankments, cuttings and walls,
 - (v) car parks and toilets,
 - (vi) any parts of the ground proposed to be set aside as a pit area or paddock area,
- (e) a statement of the maximum number of vehicles competing at any one time for each type of event to be held at the ground,
- (f) if the applicant is not the owner of the land on which the ground is situated, evidence of the consent of the owner of the land to the use of the ground for the conduct of race meetings.

Clause 6 Motor Vehicle Sports (Public Safety) Regulation 2005

Part 2 Licences and motor vehicle racing grounds

6 Application for renewal of licence

An application to renew a licence must be made by the licensee to the Director-General in the form approved by the Director-General.

7 Conditions of licence

For the purposes of section 6 (a) of the Act, the prescribed conditions of a licence are set out in Schedule 1.

8 Fees for issue and renewal of licence

The fee prescribed for the issue or renewal of a licence is \$100.

9 Form of licence

A licence is to be in the form determined by the Director-General.

10 Transfer of licence

- (1) An application for the transfer of a licence must be made to the Director-General in writing by the person to whom the licence is to be transferred.
- (2) The application must be accompanied by the following:
 - (a) the licence proposed to be transferred,
 - (b) written evidence of the consent of the licensee to the transfer,
 - (c) written evidence that the person to whom the licence is to be transferred has the right to immediate possession of the land on which the ground to which the licence relates is situated.
- (3) An application for transfer of a licence is to be granted only if the Minister approves the transfer.

11 Approval of alterations or additions

- (1) The licensee of a ground must submit to the Minister for approval full particulars of any proposal for alterations of or structural or other additions to the ground.
- (2) An application for approval of alterations or additions to the ground must be accompanied by 3 copies of the plans and specifications for the ground, drawn to scale and showing the proposed alterations or additions in contrasting colours to the existing facilities.
- (3) The licensee is guilty of an offence if any alterations or additions are made to the ground:
 - (a) without the approval of the Minister, or

Motor Vehicle Sports (Public Safety) Regulation 2005

Clause 12

Licences and motor vehicle racing grounds

Part 2

-
- (b) otherwise than in accordance with any conditions imposed on any such approval.

Maximum penalty: 5 penalty units.

- (4) It is a condition of the Minister's approval of any alterations or additions to the ground that, before starting the alterations or additions, the licensee must ensure that a copy of any development consent required to be obtained in respect of the alterations or additions is sent to the Director-General if so required.
- (5) However:
- (a) a person who has been prosecuted under the EP&A Act for carrying out any alterations or additions referred to in this clause without the necessary development consent is not liable to prosecution under subclause (3) for failure to comply with the condition of the Minister's approval referred to in subclause (4), and
- (b) a person who has been prosecuted under the EP&A Act for carrying out any alterations or additions referred to in this clause otherwise than in accordance with the relevant development consent is not liable to prosecution under subclause (3) for failure to comply with any condition of the Minister's approval that is substantially to the same effect as, or requires compliance with, a condition of the development consent.

Note. This clause does not affect any obligation the licensee has under any other law to obtain the approvals referred to in subclause (4) and to carry out the alterations or additions in accordance with those approvals.

12 Broadcasting structures

Without limiting clause 11, the promoter of a race meeting must not erect, or permit or direct any other person to erect, a temporary structure on the ground at which the meeting is to be held for the purpose of broadcasting that meeting by radio or television, unless the temporary structure is erected on a site specified in a written approval given by the officer-in-charge of the police station nearest to that ground.

Maximum penalty: 5 penalty units.

13 Provision of effective communication system

The licensee of a ground must, unless exempted from this requirement by the Minister, ensure that the ground is equipped with a communication system capable of enabling the official in charge of starting to be informed verbally or by code or signal that the track is clear and that it is safe for a race or another event to start.

Maximum penalty: 5 penalty units.

Clause 14 Motor Vehicle Sports (Public Safety) Regulation 2005

Part 2 Licences and motor vehicle racing grounds

14 Pit area

- (1) The licensee of a ground may set aside as a pit area any part of the ground for use by the competing drivers or riders of motor vehicles and their crews for the carrying out of repairs to, or the fuelling of, motor vehicles immediately before and during a motor vehicle race.
- (2) A pit area of a ground must not be located within the area bounded by the track, unless the Minister otherwise directs under this clause.
- (3) If the Minister is satisfied in a particular case that the location of a pit area is not appropriate, the Minister may, by notice in writing to the licensee of the ground, direct that the pit area be located in another part of the ground (whether or not within the area bounded by the track).
- (4) A person must not enter a pit area, or permit or direct another person to enter a pit area, during a race meeting unless the person entering the pit area:
 - (a) is authorised in writing to do so by the Minister, the licensee or the promoter of the meeting, or
 - (b) is an official, a competitor or a member of the crew of a competing vehicle and is 16 years of age or older,and, while in the pit area, the person clearly displays, by means of a badge or otherwise, evidence of the person's identity and of the person's authority to enter the pit area.

Maximum penalty (subclause (4)): 5 penalty units.

15 Paddock area

- (1) The licensee of a ground may set aside as a paddock area any part of the ground for use:
 - (a) for the storage of motor vehicles used or to be used in motor vehicle racing at the ground, and
 - (b) for the repairing and refuelling of those vehicles.
- (2) A paddock area of a ground must not be located within the area bounded by the track, unless the Minister otherwise directs under this clause.
- (3) If the Minister is satisfied in a particular case that the location of a paddock area is not appropriate, the Minister may, by notice in writing to the licensee of the ground, direct that the paddock area be located in another part of the ground (whether or not within the area bounded by the track).
- (4) A person must not enter a paddock area, or permit or direct another person to enter a paddock area, during a race meeting unless the person entering the paddock area:

Motor Vehicle Sports (Public Safety) Regulation 2005

Clause 16

Licences and motor vehicle racing grounds

Part 2

-
- (a) is authorised in writing to do so by the Minister, the licensee or the promoter of the meeting, or
 - (b) is an official, a competitor or a member of the crew of a competing vehicle.

Maximum penalty (subclause (4)): 5 penalty units.

16 Fuelling

A person must not fuel a vehicle in any part of a ground other than a pit or paddock area.

Maximum penalty: 5 penalty units.

17 Media personnel and photographers

Any person representing a television, radio station, newspaper, periodical or other publication (including any reporter, photographer and crew member) must, when entering any part of a ground (other than a spectator area) during a race meeting, clearly display:

- (a) some form of identification issued by the management of the station or publication that the person represents, and
- (b) some form of evidence that the person has been authorised to enter the area by the licensee or the promoter of the meeting.

Maximum penalty: 5 penalty units.

18 Restricted access to unauthorised areas

- (1) The Minister may, by notice in writing to the licensee of a ground, designate an area of a ground as an unauthorised area.
- (2) A person (other than an official for the meeting) must not, during a race meeting, enter any unauthorised area, except in circumstances previously approved in writing by the Minister.

Maximum penalty: 5 penalty units.

19 Control of persons attending a race meeting

- (1) An official for a race meeting or a police officer on duty may direct a person who contravenes a provision of this Regulation or trespasses or causes annoyance or inconvenience on any part of a ground to leave the ground or part of the ground.
- (2) A person must not remain in any part of a ground after having been directed under subclause (1) to leave that part of the ground.

Maximum penalty: 5 penalty units.

Clause 20 Motor Vehicle Sports (Public Safety) Regulation 2005

Part 2 Licences and motor vehicle racing grounds

- (3) Any person found in a part of a ground in which he or she is not permitted to be may be removed from that part of the ground by any police officer on duty.

20 Commencement of races or events

The licensee of a ground, an official for a race meeting or the promoter of a race meeting must not permit or direct any practice, race or other event to commence if the licensee, official or promoter is aware that:

- (a) the track is not clear and safe, or
(b) to do so would subject any person to imminent or undue danger.

Maximum penalty: 5 penalty units.

21 Safety fence gates not to be opened during races

- (1) A person must not open or unfasten a gate in any safety fence at a ground while any motor vehicle is being driven in any practice, race or other event at the ground.

Maximum penalty: 5 penalty units.

- (2) The licensee of a ground, an official for a race meeting or the promoter of a race meeting must not permit or direct a gate in any safety fence at a ground to be opened or unfastened while any motor vehicle is being driven in any practice, race or other event at the ground.

Maximum penalty: 5 penalty units.

- (3) Nothing in this clause prevents an ambulance, fire engine, tow-truck or other emergency vehicle from entering and using a track to attend an accident, breakdown or other similar incident.

22 Cessation of races or events

- (1) If the senior police officer on duty at a race meeting is satisfied that any person is in imminent or undue danger if further racing or events are carried on, the officer may direct the clerk of the course or any other person in charge of the conduct of the meeting to cease immediately any racing or event and not to continue until the danger has been removed.

- (2) A person to whom a direction is given under subclause (1) must comply with the direction.

Maximum penalty: 5 penalty units.

- (3) A licensee of a ground, an official for a race meeting or a promoter of a race meeting must not obstruct or delay the clerk of the course or another person attempting to comply with a direction given under subclause (1).

Maximum penalty: 5 penalty units.

Motor Vehicle Sports (Public Safety) Regulation 2005

Clause 23

Licences and motor vehicle racing grounds

Part 2

23 Conveyance of passengers

- (1) Except where previously approved by the Minister in writing:
- (a) the driver or rider of any motor vehicle competing in motor vehicle racing must not permit any other person to accompany him or her in or on the vehicle during the course of any race at a race meeting, and
 - (b) a person must not accompany the driver or the rider of a motor vehicle in or on the vehicle during the course of any race at a race meeting.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply in respect of:
- (a) a person accompanying the rider of a motor vehicle as a passenger in any race for motorcycles fitted with side cars, or
 - (b) a person accompanying the driver of a motor vehicle as a navigator or instructor.

24 Inspection of licensed ground

- (1) A police officer on duty, or any other person authorised by the Minister to inspect a ground, may carry out an inspection of a licensed ground for the purpose of ascertaining whether the licensee is complying with this Regulation and the conditions of the licence for the ground.
- (2) A person must not hinder, obstruct or wilfully delay any police officer on duty, or other person authorised to inspect a ground by the Minister, who is attempting to carry out an inspection under subclause (1).

Maximum penalty: 5 penalty units.

25 Competitor to comply with directions

- (1) A police officer on duty may direct a person, in the interests of public or competitor safety, not to race or compete in any event at a race meeting.
- (2) A person to whom a direction is given under subclause (1) must comply with the direction.

Maximum penalty: 5 penalty units.

Clause 26 Motor Vehicle Sports (Public Safety) Regulation 2005

Part 3 Advisory committees

Part 3 Advisory committees

26 Organisations to be represented

For the purposes of section 16 (2) (a) of the Act, the following organisations are prescribed:

- (a) Confederation of Australian Motor Sport,
- (b) Motorcycling NSW Limited,
- (c) Australian Karting Association (NSW) Inc,
- (d) Australian National Drag Racing Association Inc.,
- (e) National Association of Speedway Racing Inc.

27 Nomination of members for appointment to advisory committee

For the purposes of section 16 (2) (a) of the Act, members of the organisations referred to in clause 26 are to be nominated in writing by the organisation on the request of the Minister, in such manner and number as is specified in that request.

28 Functions of Motor Vehicle Sports Advisory Committee

The functions of the committee established under section 16 of the Act and known as the Motor Vehicle Sports Advisory Committee are as follows:

- (a) to consider all applications for a new licence for a ground and to make recommendations to the Minister regarding the following:
 - (i) the granting or otherwise of those applications,
 - (ii) the conditions that should apply in respect of the licensing of any ground,
 - (iii) the location of and specifications for safety devices that need to be provided at any ground,
 - (iv) any other matters regarding the licensing of any particular ground,
- (b) to consider and make recommendations to the Minister about proposed alterations or additions to grounds,
- (c) to make recommendations to the Minister regarding existing grounds.

Motor Vehicle Sports (Public Safety) Regulation 2005

Clause 29

Miscellaneous

Part 4

Part 4 Miscellaneous

29 Contravention of conditions of licences

- (1) The licensee of a ground must not contravene, by act or omission, a condition of the licence.
Maximum penalty: 5 penalty units.
- (2) Nothing in this clause affects any liability under section 8 (Unlawful race meetings) of the Act but this clause does not render a person liable to be proceeded against both for a contravention of that section and of this clause in respect of the same act or omission.

30 Savings

- (1) Any act, matter or thing that, immediately before the repeal of the *Motor Vehicle Sports (Public Safety) Regulation 1999*, had effect under that Regulation is taken to have effect under this Regulation.
- (2) A person nominated, for the purposes of section 16 (2) (a) of the Act, in accordance with clause 29 of the *Motor Vehicle Sports (Public Safety) Regulation 1999* is taken to have been nominated in accordance with clause 27 of this Regulation and holds office as a member of the relevant advisory committee for the balance of the term for which he or she was appointed.

Motor Vehicle Sports (Public Safety) Regulation 2005

Schedule 1 Prescribed licence conditions

Schedule 1 Prescribed licence conditions

(Clause 7)

1 Insurance required

Before the ground is used for motor vehicle racing or practice, the licensee is to provide the Director-General with evidence satisfactory to the Director-General that public risk insurance cover has been effected in respect of all claims arising out of each meeting at the ground. The State of New South Wales (represented by the Minister for Tourism, Sport and Recreation) must be noted on the insurance policy as an insured or interested party for its relevant rights and interests.

2 Insurance to be maintained

The licensee must maintain the insurance cover during the currency of the licence and notify the Director-General immediately on receipt of any advice from the insurer of intention to cancel the policy.

3 Notice of meeting to police and ambulance service

The licensee must, at least 14 days before the holding of a race meeting at the ground, give notice in writing of the intended meeting to each of the following:

- (a) the officer-in-charge of the police station nearest to the ground,
- (b) the officer-in-charge of the ambulance station nearest to the ground.

4 Fire-fighting appliances

The licensee must provide and maintain serviceable fire-fighting appliances as required by the Minister for the type of motor vehicle racing conducted at the ground.

5 Maintenance of safety fences

The licensee must maintain all fences and other safety devices constructed at the ground in such condition as is necessary to ensure that they provide the protection they are designed to provide.

6 Directions for additional safety measures

The licensee must comply with any written direction of the Minister served on the licensee requiring the construction of a fence or any other safety device at the ground to such specifications as are stated in the direction.

Motor Vehicle Sports (Public Safety) Regulation 2005

Prescribed licence conditions

Schedule 1

7 Location of pit area or paddock area

The licensee must comply with any written direction of the Minister served on the licensee requiring that the location of a pit area or paddock area be changed.

8 Plan of ground to be displayed

The licensee must keep the licence for the ground displayed in a position accessible to all patrons together with a copy of the plans of the ground showing the location of the various facilities at the ground, including any pit and paddock areas and any unauthorised areas.

9 Toilet facilities

The licensee must provide and maintain sanitary accommodation for both sexes in such quantity and at such a standard as are satisfactory to the local Council.

10 Inspection of ground

The licensee must ensure that access is available to all parts of the ground:

- (a) to any police officer on duty, and
- (b) to any person authorised to inspect the ground by the Minister, who desires to carry out an inspection for the purpose of ascertaining whether the Act, the regulations and the conditions of the licence are being complied with.

11 Reporting of serious accidents

If, during a race meeting at the ground, a person dies or is injured in a way that requires medical attention, the licensee must give an accident report (in a form approved by the Director-General) to the Director-General and the officer-in-charge of the nearest police station as soon as is reasonably practicable.

12 Notification of change in ownership of ground

The licensee of a ground must notify the Director-General immediately of any change in the person or persons who have the right to immediate possession of the land on which the ground is situated.

13 Notification of alterations to configuration of track

The licensee must obtain the prior approval of the Director-General for any alteration to the configuration of the racing track at the ground.



New South Wales

Police Superannuation Regulation 2005

under the

Police Regulation (Superannuation) Act 1906

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Police Regulation (Superannuation) Act 1906*.

JOHN DELLA BOSCA, M.L.C.,
Special Minister of State

Explanatory note

The object of this Regulation is to remake the provisions of the *Police Superannuation Regulation 2000*. That Regulation is to be repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) certain remuneration of police officers that is, or is not, to be counted as part of their “salary of office” (clause 6),
- (b) leave without pay in relation to superannuation contributions (clause 7),
- (c) the reduction of certain specified benefits under the Act in order to offset certain tax liabilities of the Fund (Part 3),
- (d) the Police Medical Board and medical examinations relating to fitness for duty (Part 4),
- (e) information to be provided by and about beneficiaries under the Act (Part 5),
- (f) superannuation contributions surcharge (clauses 29–31),
- (g) offences and penalties (clause 32),
- (h) other minor, consequential and ancillary matters (clauses 1–5, 33 and 34).

This Regulation is made under the *Police Regulation (Superannuation) Act 1906*, including section 24 (the general regulation-making power) and sections 1, 5A, 12H, 14AA and 15A and clause 1 of Schedule 6.

This Regulation deals with matters of a machinery nature, matters arising under legislation that complements Commonwealth legislation and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Police Superannuation Regulation 2005

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| Clause 1 | Police Superannuation Regulation 2005 |
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Police Superannuation Regulation 2005

under the

Police Regulation (Superannuation) Act 1906

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Police Superannuation Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Police Superannuation Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

additional surcharge amount means the amount of superannuation contributions surcharge assessed to be payable by a post payment surcharge assessment notice.

Commissioner of Taxation means the person holding office for the time being as Commissioner of Taxation under a law of the Commonwealth.

post payment surcharge assessment notice means a notice of assessment of superannuation contributions surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth in respect of the employer contributions paid to the Fund on behalf of a former contributor, being a notice that is received by the former contributor after a benefit has commenced to be paid or has been paid to the former contributor.

surcharge debt account has the same meaning as in section 14AA of the Act.

surcharge deduction cap means the maximum surcharge deduction amount that may be determined by STC under section 14AA (1C) of the Act in relation to a benefit payable to a former contributor.

the Act means the *Police Regulation (Superannuation) Act 1906*.

Police Superannuation Regulation 2005

Clause 4

Preliminary

Part 1

total surcharge amount, in respect of a former contributor, means the sum of:

- (a) the total amount of superannuation contributions surcharge that has been assessed to be payable in respect of employer contributions paid to the Fund on the contributor's behalf up to and including the date on which the former contributor receives a post payment surcharge assessment notice, and
- (b) the amount (if any) of general interest charged in respect of the additional surcharge amount payable under the notice, and
- (c) the amount of interest (if any) payable in respect of the surcharge debt account kept in respect of the contributor.

Note. Section 1 (2) of the Act defines **STC** as the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

4 Notes

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

5 Additional members of the police force to whom Act applies

- (1) For the purposes of section 1A (1) (c) of the Act, the class of members of the police force consisting of the persons listed below is prescribed as a class to which the Act applies:
Robert Allan SHANKLETON—Registered No 24929
Shaun Patrick MOLONEY—Registered No 25077
Jennifer Louise CULLANE—Registered No 25777.
- (2) For the purposes of section 1A (2) of the Act, the date 23 October 1992 is prescribed.

Clause 6 Police Superannuation Regulation 2005

Part 2 Salary and leave

Part 2 Salary and leave

6 Salary of office

- (1) For the purposes of paragraph (a) of the definition of *salary of office* of a member of the police service other than an executive officer in section 1 (2) of the Act, remuneration received by a member of the police service to whom the definition relates by way of any of the following allowances is prescribed as exempt:
 - (a) a soiled clothing allowance,
 - (b) a shift allowance,
 - (c) a stocking allowance.
- (2) The definition of *salary of office* of a member of the police service other than an executive officer in section 1 (2) of the Act includes any remuneration received by the member of the police service concerned by way of a bonus for the member's having attained any of the following qualifications:
 - (a) Associate Diploma in Justice Administration,
 - (b) Diploma in Criminology,
 - (c) the degree of Bachelor of Laws,
 - (d) any other degree approved by STC for the purposes of this paragraph.

7 Initial period of leave

For the purposes of section 5A of the Act, 3 months is prescribed as the "initial period". However, if the period of leave in relation to which the expression "initial period" is used is less than 3 months, that period of leave is prescribed.

Police Superannuation Regulation 2005

Clause 8

Benefit reduction provisions

Part 3

Part 3 Benefit reduction provisions

Division 1 Benefit reductions relating to Commonwealth income tax

8 Benefits to which this Division applies

Except as provided by clause 12, this Division applies to the benefits provided under the following provisions of the Act:

- (a) section 5B (Contributor who is executive officer),
- (b) section 7 (Superannuation allowance except where member hurt on duty),
- (c) section 7AA (Superannuation allowance on early retirement),
- (d) section 8A (Disengagement benefit for members aged between 45–55),
- (e) section 9B (Preserved benefit),
- (f) section 10 (Superannuation allowance where member hurt on duty),
- (g) section 12 (Superannuation allowance where a member or former member dies as a result of being hurt on duty), except the benefit payable as a result of an election under subsection (1A) (to take a gratuity prescribed by section 13), or the benefit payable under section 12 (1AA) (b) (ii),
- (h) section 13A (Gratuity where deceased member hurt on duty but left no dependants etc),
- (i) section 14 (Gratuity for discharged members not hurt on duty),
- (j) section 14J (Commutation on normal or early retirement of member).

9 Formula for calculation of reduction in benefits

- (1) For the purposes of section 14AA of the Act (but limited to the matters referred to in subsection (2) of that section), the reduction in a benefit to which this Division applies is the amount calculated in accordance with the following formula:

$$R = M \times \frac{A}{B} \times Q$$

where:

R represents the amount of the reduction.

M represents the amount of the benefit being reduced.

Clause 10 Police Superannuation Regulation 2005

Part 3 Benefit reduction provisions

A is calculated in accordance with clause 10 and represents the portion of the benefit attributable to employer contributions.

B represents the value of the benefit, which is calculated as:

- (a) in a case in which a gratuity benefit or preserved benefit or a lump sum benefit for which an election has been made or is deemed to have been made under section 14J of the Act is to be paid to or in respect of the member or former member—the amount of that benefit, or
- (b) in a case in which an allowance is to be paid to or in respect of the member or former member—the amount calculated by STC as the capitalised value of the benefits payable to or in respect of the member or former member.

Q represents the sum of such number of terms as is determined in accordance with the formula prescribed by clause 11 to reflect the number of times the rate of tax (being the tax referred to in section 14AA (1) of the Act) has changed.

- (2) No benefit reduction applies in any case where the value of *A* in the formula in this clause is equal to or less than 0.

Note. Section 14AA of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

10 Calculation of portion of benefit attributable to employer contributions

- (1) In the formula in clause 9, the amount represented by the symbol *A* is calculated by subtracting the sum of the following amounts from the amount represented by the symbol *B* in that formula:
 - (a) the total of all amounts deducted under the Act from the member's or former member's salary of office from the date when the member or former member last became a member to the date of cessation or death,
 - (b) the amount, if any, repaid by the member or former member to the Fund under section 17 (3) of the Act,
 - (c) interest:
 - (i) compounded on 30 June in each year in respect of the period beginning with the later of the day on which the member or former member last became liable to make contributions under the Act and 23 November 1984 and also compounded on the date on which the member or former member ceased to be a member or died, and
 - (ii) calculated at the prescribed rate provided for by subclause (2) on the amount ascertained by adding the amounts referred to in paragraphs (a) and (b).

Police Superannuation Regulation 2005

Clause 11

Benefit reduction provisions

Part 3

-
- (2) For the purposes of subclause (1) (c) (ii), the prescribed rate is:
- (a) in respect of any relevant period beginning with 23 November 1984 and ending with 30 June 1990—4.5% per year, or
 - (b) in respect of any relevant period beginning on or after 1 July 1990—the rate fixed from time to time under section 16 of the *State Authorities Superannuation Act 1987*.
- (3) Despite subclauses (1) and (2), for the purposes of the formula in clause 9, $\frac{A}{B}$ is taken to be unity, if the benefit to be reduced is an increase in any allowance under section 10 or 12 of the Act.

11 Calculation of aggregate rate of tax

For the purposes of the symbol Q in clause 9, the formula prescribed by this clause is:

$$\frac{C}{D} \times L$$

where:

C represents the number of days of continuous service that the person to or in respect of whom the benefit is payable has had as a member of the police force in each period during which the rate of tax payable on employer contributions (as referred to in section 14AA of the Act) is L .

D represents:

- (a) in the case of benefits arising under section 10 or 12 of the Act—the number of days of continuous service that the person to or in respect of whom the benefit is payable has had as a member of the police force during the period beginning with the date when the person last became liable to make contributions under the Act and ending with the later of the date the person ceased to be a member of the Fund and the date on which the person would have been eligible to retire under section 7 of the Act if the person's employment as a member of the police force had continued to that date, or
- (b) in all other cases—the number of days of continuous service that the person to or in respect of whom the benefit is payable has had as a member of the police force during the period beginning with the date on which the person last became liable to make contributions under the Act and ending when the person ceased to be a member of the Fund.

| | |
|-----------|---------------------------------------|
| Clause 12 | Police Superannuation Regulation 2005 |
| Part 3 | Benefit reduction provisions |

L represents the rate of tax payable on employer contributions set out in the relevant Commonwealth taxation law or such lesser rate as may be determined by STC having regard to the most recent actuarial valuation of the scheme.

Note. The benefit that emerges on the death of a former member of the police force under section 11 or 12 (1AA) (b) (ii) of the Act is not to be reduced because it is calculated as a proportion of the benefit payable to the former member and that benefit will already have been reduced in accordance with section 14AA of the Act.

12 Calculation of reduction in benefits relating to past benefits

- (1) This clause applies to a benefit payable on or after 1 July 2000 that is:
 - (a) a superannuation allowance referred to in clause 8 that was first payable on or after 1 July 1988 and before 1 July 1997, or
 - (b) a superannuation allowance granted under section 11, 11AA, 11A, 11C or 12 (1AA) (b) (ii) of the Act to the spouse of a former member who first received a superannuation allowance on or after 1 July 1988 and before 1 July 1997.
- (2) In addition to other reductions calculated under this Division, benefits to which this clause applies are, for the purposes of section 14AA of the Act, to be reduced in accordance with this clause.
- (3) A benefit referred to in subclause (1) (a) is to be reduced by an amount calculated by applying the provisions of clauses 9, 10 and 11 in respect of the amount of the superannuation allowance when it was first payable.
- (4) A benefit referred to in subclause (1) (b) is to be reduced by an amount equal to 62.5% of the amount calculated by applying the provisions of clauses 9, 10 and 11 in respect of the superannuation allowance paid to the former member whose spouse is receiving the allowance, as at the date that allowance was first paid to the former member.
- (5) In addition to any reduction calculated under subclause (3) or (4), a benefit to which this clause applies:
 - (a) that is a superannuation allowance payable under section 10 or 12 of the Act, and
 - (b) that has been increased since the first date on which it was payable,
 is to be further reduced by amounts calculated by applying the provisions of clauses 9, 10 and 11 to the amount of each increase, as at the date on which the increase was effected.
- (6) If a benefit has been reduced as a result of one or more commutations, the amount of any reduction calculated under subclause (3), (4) or (5) is to be diminished by multiplying it by a fraction equal to the proportion

Police Superannuation Regulation 2005

Clause 13

Benefit reduction provisions

Part 3

that the benefit payable on 1 July 2000 bears to the benefit that would have been payable on that date if no commutation had occurred.

- (7) In the case of a superannuation allowance liable to adjustment under Division 2 of Part 4 of the Act, the amount of a reduction calculated under subclause (3), (4) or (5) is to be adjusted, in relation to each year during which the allowance has been paid, ending on 1 July 2000, by the adjustment percentage for that year applied to the superannuation allowance under Division 2 of Part 4 of the Act.

Division 2 Benefit reductions relating to Commonwealth superannuation contributions surcharge

13 Reduction of certain benefits: section 14AA (3)

For the purposes of section 14AA of the Act (but limited to the matters referred to in subsection (3) of that section), benefits provided under the following provisions of the Act are prescribed:

- (a) section 5B (Contributor who is executive officer),
- (b) section 7 (Superannuation allowance except where member hurt on duty),
- (c) section 7AA (Superannuation allowance on early retirement),
- (d) section 8A (Disengagement benefit for members aged between 45–55),
- (e) section 9B (Preserved benefit),
- (f) section 10 (Superannuation allowance where member hurt on duty),
- (g) section 12 (Superannuation allowance where a member or former member dies as a result of being hurt on duty) but limited to benefits payable under section 12 (1AA) (a) and (b) (i), or where as a result of an election under subsection (1A) (to take a gratuity prescribed by section 13) a benefit is payable under that section,
- (h) section 13 (Gratuity where deceased member not hurt on duty),
- (i) section 13A (Gratuity where deceased member hurt on duty but left no dependants etc),
- (j) section 14 (Gratuity for discharged members not hurt on duty),
- (k) section 14J (Commutation on normal or early retirement of member).

Clause 14 Police Superannuation Regulation 2005

Part 3 Benefit reduction provisions

14 Further reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 14AA (5)

- (1) STC may, at the request of a former contributor:
- (a) adjust the amount of a benefit payable to the former contributor by reducing the benefit by an amount (the *reduction amount*) that is equivalent to the lesser of:
 - (i) the additional surcharge amount, and
 - (ii) the amount (not being less than nil) that is equal to the amount of the surcharge deduction cap less any previously met surcharge liability, and
 - (b) pay an amount that is equal to the reduction amount to the former contributor or the Commissioner of Taxation.
- (2) In subclause (1), *previously met surcharge liability* means the sum of:
- (a) all amounts paid by the former contributor to STC or the Commissioner of Taxation in relation to the total surcharge amount of the former contributor, and
 - (b) all amounts in respect of which adjustments relating to the benefit of the former contributor have previously been made under this clause or the Act in relation to the superannuation contributions surcharge.
- (3) For the purposes of determining an adjustment under this clause, STC may obtain actuarial advice or advice from any other persons, as STC thinks fit.
- (4) This clause does not authorise STC to pay any amount that would result in payments made to or on behalf of the former contributor exceeding the total benefits to which the former contributor is entitled.

Division 3 Benefit reductions relating to early release of benefits on ground of severe financial hardship or on compassionate grounds

15 Application of Division

The benefits under the following provisions of the Act may be the subject of a reduction under this Division:

- (a) section 5B (Contributor who is executive officer),
- (b) section 7 (Superannuation allowance except where member hurt on duty),
- (c) section 7AA (Superannuation allowance on early retirement),
- (d) section 8A (Disengagement benefit for members aged between 45–55),

Police Superannuation Regulation 2005

Clause 16

Benefit reduction provisions

Part 3

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- (e) section 9B (Preserved benefit),
 - (f) section 9C (Preservation of minimum benefits under superannuation guarantee legislation),
 - (g) section 10 (Superannuation allowance where member hurt on duty),
 - (h) section 12 (Superannuation allowance where a member or former member dies as a result of being hurt on duty), but limited to benefits payable under section 12 (1AA) (a) and (b) (i), or where as a result of an election under subsection (1A) to take a gratuity prescribed by section 13, a benefit is payable under that section,
 - (i) section 13 (Gratuity where deceased member not hurt on duty),
 - (j) section 13A (Gratuity where deceased member hurt on duty but left no dependants etc),
 - (k) section 14 (Gratuity for discharged members not hurt on duty),
 - (l) section 14J (Commutation on normal or early retirement of member).

16 Reduction of benefits

- (1) This clause applies to the reduction of benefits payable to or in respect of a contributor or former contributor (other than a benefit payable under section 12F or 12G of the Act) to whom a benefit has been released on the ground of the contributor's or former contributor's severe financial hardship or on compassionate grounds.
- (2) If a benefit is released to a former contributor who provided for a benefit under section 9B of the Act, or had a benefit preserved under section 9C of the Act, STC must, on and from the date of release, calculate the amount of any benefit provided for or preserved and reduce that amount by the amount of benefit released. The amount of benefit payable when the benefit provided for or preserved is payable is to be reduced accordingly.
- (3) In any other case, STC must create a debt account in the Fund in respect of the contributor and must when a benefit is payable reduce the benefit that is payable by the amount debited to the debt account at the time the benefit is payable.
- (4) Despite subclause (3), if a benefit is provided for or preserved under section 9B or 9C of the Act after the release to the contributor concerned of a benefit and before a benefit is otherwise payable, STC must, on and from the date the benefit is provided for or preserved, calculate the amount of benefit provided for or preserved and reduce that amount by the amount debited to the debt account at the time the benefit is provided

Clause 17 Police Superannuation Regulation 2005

Part 3 Benefit reduction provisions

for or preserved. The amount of benefit payable when the benefit provided for or preserved is payable is to be reduced accordingly.

- (5) The amount debited to the debt account is to be the amount of benefit released together with interest on that amount at a rate determined by STC.
- (6) STC may obtain actuarial advice for the purpose of determining the amount of a reduced benefit.

17 Consent to benefit reduction

Before releasing a benefit on the ground of severe financial hardship or on compassionate grounds, STC must obtain the written consent of the contributor or former contributor to the reduction of benefits as a consequence of the early release.

18 Commutation of superannuation allowances for reduction of benefits

- (1) If a benefit that may be taken in the form of a superannuation allowance is to be reduced under this Division, STC may, at its discretion and with the consent of the person to whom the allowance is payable, commute part of the unreduced allowance to a lump sum for the purposes of the payment to STC of the amount of the reduction.
- (2) Commutation of part of the superannuation allowance:
 - (a) does not affect any other right that the person has to commute the allowance under the Act, and
 - (b) is not to be taken into account for the purpose of determining whether, and to what extent, any such other right may be exercised, and
 - (c) is to be done on a basis determined by STC.
- (3) STC may obtain actuarial advice for the purpose of determining the basis on which part of a superannuation allowance is to be commuted under this section.

19 Release of benefits during transitional period

- (1) This clause applies to the release of a benefit to a contributor or former contributor on the ground of severe financial hardship or on compassionate grounds during the transitional period if:
 - (a) the release was not inconsistent with section 12F or 12G of the Act, as inserted by the *Superannuation Legislation Amendment Act 2000*, and
 - (b) STC obtained the written consent of the contributor or former contributor to the reduction of benefits as a consequence of the early release.

Police Superannuation Regulation 2005

Clause 19

Benefit reduction provisions

Part 3

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- (2) Clauses 15, 16 and 18 apply in respect of a release of benefit to which this clause applies in the same way as they apply to a release of benefit after the commencement of those clauses.
- (3) In this clause:
transitional period means the period commencing on the date of assent to the *Superannuation Legislation Amendment Act 2000* and ending on the commencement of sections 12F and 12G of the Act, as inserted by that Act.

Clause 20 Police Superannuation Regulation 2005

Part 4 Police Medical Board and medical examinations

Part 4 Police Medical Board and medical examinations

20 Definitions

In this Part:

former member of the police force means a person whose service as a member of the police force did not extend beyond 31 March 1988.

medically unfit for duty means incapable, from a specified infirmity of body or mind, of discharging the duties of office.

Police Medical Officer means a person appointed to the position of Medical Officer in the Employee Assistance Branch of NSW Police.

21 Application of Part

This Part applies only in respect of former members of the police force.

22 Member of Police Medical Board not to act in certain circumstances

A member of the Police Medical Board is not to act as a member of that Board when it is considering a possible infirmity of mind or body of a former member of the police force whom the member of the Police Medical Board has treated or seen professionally in connection with the infirmity.

23 Police Medical Board to consider fitness only

The Police Medical Board is to deal only with the medical condition and medical fitness for duty of the former member of the police force being examined.

24 Medical examination procedure

- (1) The examination of a former member of the police force by the Police Medical Board is to be carried out by any 2 members of that Board in consultation.
- (2) A Police Medical Officer is to be present at the consultation if the members carrying out the examination so desire.

25 Application for examination by Police Medical Board

- (1) A former member of the police force who has resigned or retired may apply to STC for the grant of an annual superannuation allowance under section 10 of the Act.

Police Superannuation Regulation 2005

Clause 25

Police Medical Board and medical examinations

Part 4

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- (2) Such a former member must furnish the following to STC:
- (a) particulars of the infirmity that rendered the former member medically unfit for duty and of the injury received while the former member was a member of the police force that caused that infirmity,
 - (b) a list of the names of the medical practitioners the former member has consulted or by whom he or she has been treated in connection with the infirmity,
 - (c) any relevant medical certificates or reports,
 - (d) particulars of any illness or injury that the former member has suffered since leaving the police force,
 - (e) particulars of any employment (whether paid or unpaid) in which the former member has been engaged since leaving the police force.
- (3) The former member must submit to a medical examination by a Police Medical Officer, the Police Medical Board, or any one or more medical practitioners, as required by STC or the person appointed as the Commissioner of Police under the *Police Act 1990*.

Clause 26 Police Superannuation Regulation 2005

Part 5 Information about beneficiaries

Part 5 Information about beneficiaries

26 Definition

In this Part, *beneficiary* means a person who is entitled to receive a superannuation allowance or gratuity from the Fund.

27 STC may require evidence

STC, when considering any case involving payment to a beneficiary, may require the production of such certificates and other documentary evidence as it considers necessary.

28 Beneficiaries to provide information

A beneficiary must promptly notify STC, in writing, of any change of address.

Police Superannuation Regulation 2005

Clause 29

Miscellaneous

Part 6

Part 6 Miscellaneous

29 Payment by STC in relation to post payment surcharge assessment notice received by former contributor

- (1) If the total surcharge amount in respect of a former contributor who has paid an additional surcharge amount to the Commissioner of Taxation exceeds the surcharge deduction cap, STC may reimburse the former contributor by paying to the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.
- (2) STC may, at the request of a former contributor who has received a post payment surcharge assessment notice with respect to an additional surcharge amount that would, if paid, result in, or that has resulted in, the total surcharge amount exceeding the surcharge deduction cap, pay to the Commissioner of Taxation on behalf of the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.

Note. Clause 14 provides for further reduction of certain benefits resulting from the liability of a former contributor for superannuation contributions surcharge.

30 Limitation on payment of penalty interest

Clauses 14 and 29 do not authorise STC to pay any amount of general interest charged in respect of an additional surcharge amount payable under a post payment surcharge assessment notice unless the request for the payment is made within such period after the notice is received as STC considers reasonable.

31 Surcharge deduction amount

For the purposes of section 14AA (1C) of the Act, the surcharge deduction amount determined by STC must not exceed the sum of:

- (a) an amount that is 15% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued after 20 August 1996 and before 1 July 2003, and
- (b) an amount that is 14.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2003 and before 30 June 2004, and

Clause 32 Police Superannuation Regulation 2005

Part 6 Miscellaneous

- (c) an amount that is 12.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2004 and before 30 June 2005, and
- (d) an amount that is 10% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2005.

32 Offences and penalties

A person must not, in purported compliance with a requirement of clause 25 (2) or a requirement made under clause 27:

- (a) supply information that the person knows to be false or misleading in a material particular, or
- (b) fail to disclose relevant information.

Maximum penalty: 5 penalty units.

33 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Police Superannuation Regulation 2000* had effect under that Regulation continues to have effect under this Regulation.

34 Hurt on duty benefits—transitional provision

- (1) This clause is made for the purposes of clause 1 of Schedule 6 to the Act consequent on the enactment of the *Superannuation Legislation Amendment Act 2005* (*the amending Act*).
- (2) STC may, in determining whether to grant a gratuity under section 12D of the Act, rely on a decision of the Commissioner of Police made under that section before its amendment by the amending Act.
- (3) Subclause (2) applies whether or not the Commissioner made the relevant decision at the request of STC.



New South Wales

Protection of the Environment Operations (Clean Air) Amendment (Industrial and Commercial Activities and Plant) Regulation 2005

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,
Minister for the Environment

Explanatory note

The object of this Regulation is to repeal the *Clean Air (Plant and Equipment) Regulation 1997* and to transfer its provisions, with modifications, to the *Protection of the Environment Operations (Clean Air) Regulation 2002*. The modifications involve the classification (by age) of different activities and plant (both for premises accommodating licensed activities and plant and premises accommodating activities and plant not requiring a licence) and the establishment of emission standards whose level of stringency vary as between the various classes of activities and plant.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 128 (1), 286 (1) and 323 and Schedule 2 (the general regulation-making power).

Clause 1 Protection of the Environment Operations (Clean Air) Amendment
 (Industrial and Commercial Activities and Plant) Regulation 2005

Protection of the Environment Operations (Clean Air) Amendment (Industrial and Commercial Activities and Plant) Regulation 2005

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Clean Air) Amendment (Industrial and Commercial Activities and Plant) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

3 Amendment of Protection of the Environment Operations (Clean Air) Regulation 2002

The *Protection of the Environment Operations (Clean Air) Regulation 2002* is amended as set out in Schedule 1.

4 Repeal of Clean Air (Plant and Equipment) Regulation 1997

The *Clean Air (Plant and Equipment) Regulation 1997* is repealed.

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions and notes

Insert in alphabetical order in clause 3 (1):

Approved Methods (Modelling and Assessment) Publication means the document entitled *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales* prepared by the EPA and published in the Gazette, as in force from time to time.

Approved Methods (Sampling and Analysis) Publication means the document entitled *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales* prepared by the EPA and published in the Gazette, as in force from time to time.

CEM, together with a number, means a monitoring method of that number prescribed by the Approved Methods (Sampling and Analysis) Publication.

Central Coast Metropolitan Area means the local government areas of Gosford and Wyong.

Greater Metropolitan Area means:

- (a) the Central Coast Metropolitan Area, and
- (b) the Newcastle Metropolitan Area, and
- (c) the Sydney Metropolitan Area, and
- (d) the Wollongong Metropolitan Area, and
- (e) the local government areas of Blue Mountains, Cessnock, Kiama, Lithgow, Maitland, Mid-Western Regional, Muswellbrook, Port Stephens, Shoalhaven, Singleton, Wingecarribee and Wollondilly.

monitoring method means a continuous emissions monitoring method prescribed by the Approved Methods (Sampling and Analysis) Publication.

Newcastle Metropolitan Area means the local government areas of Lake Macquarie and Newcastle.

Sydney Metropolitan Area means the local government areas of Ashfield, Auburn, Bankstown, Baulkham Hills, Blacktown, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, Fairfield, Hawkesbury, Holroyd, Hornsby, Hunter's Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale, Ryde,

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

Strathfield, Sutherland, Sydney, Warringah, Waverley, Willoughby and Woollahra.

test method means a test method prescribed by the Approved Methods (Sampling and Analysis) Publication.

TM, together with a number, means a test method of that number prescribed by the Approved Methods (Sampling and Analysis) Publication.

Wollongong Metropolitan Area means the local government areas of Shellharbour and Wollongong.

[2] **Clause 7 Definitions**

Omit the definitions of *Approved Methods Publication* and *Test Method*.

[3] **Parts 4–7**

Omit Part 4. Insert instead:

Part 4 Emission of air impurities from activities and plant

Division 1 Preliminary

20 Definitions

(1) In this Part, and in Schedules 2–7

approved circumstances are defined in clause 30 (in relation to scheduled premises) and clause 35 (in relation to non-scheduled premises).

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

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

dioxin means any of the following:

- (a) 2,3,7,8 tetrachlorodibenzodioxin (TCDD),
- (b) 1,2,3,7,8 pentachlorodibenzodioxin (PeCDD),
- (c) 1,2,3,4,7,8 hexachlorodibenzodioxin (HxCDD),
- (d) 1,2,3,6,7,8 hexachlorodibenzodioxin (HxCDD),
- (e) 1,2,3,7,8,9 hexachlorodibenzodioxin (HxCDD),
- (f) 1,2,3,4,6,7,8 heptachlorodibenzodioxin (HpCDD),
- (g) octachlorodibenzodioxin (OCDD),

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

emission unit means an item of plant that forms part of, or is attached to, some larger plant, being an item of plant that emits, treats or processes air impurities or controls the discharge of air impurities into the atmosphere.

furan means any of the following:

- (a) 2,3,7,8 tetrachlorodibenzofuran (TCDF),
- (b) 2,3,4,7,8 pentachlorodibenzofuran (PeCDF),
- (c) 1,2,3,7,8 pentachlorodibenzofuran (PeCDF),
- (d) 1,2,3,4,7,8 hexachlorodibenzofuran (HxCDF),
- (e) 1,2,3,6,7,8 hexachlorodibenzofuran (HxCDF),
- (f) 1,2,3,7,8,9 hexachlorodibenzofuran (HxCDF),
- (g) 2,3,4,6,7,8 hexachlorodibenzofuran (HxCDF),
- (h) 1,2,3,4,6,7,8 heptachlorodibenzofuran (HpCDF),
- (i) 1,2,3,4,7,8,9 heptachlorodibenzofuran (HpCDF),
- (j) octachlorodibenzofuran (OCDF).

Group, in relation to any activity or plant, means the Group to which the activity or plant belongs pursuant to its classification:

- (a) in relation to any activity or plant carried out or operated on scheduled premises, under Division 2, or
- (b) in relation to any activity or plant carried out or operated on non-scheduled premises, under Division 3.

non-scheduled premises means premises (other than scheduled premises) at which an activity is carried on or plant is operated.

non-standard fuel means any fuel other than a standard fuel.

principal toxic air pollutant means any one or more of the following elements, compounds or classes of compounds:

- (a) acrolein,
- (b) acrylonitrile,
- (c) alpha chlorinated toluenes and benzoyl chloride,
- (d) arsenic and arsenic compounds,
- (e) benzene,
- (f) beryllium and beryllium compounds,
- (g) 1,3-butadiene,
- (h) cadmium and cadmium compounds,
- (i) chromium VI compounds,
- (j) 1,2-dichloroethane (ethylene dichloride),

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

- (k) dioxins or furans,
- (l) epichlorohydrin,
- (m) ethylene oxide,
- (n) formaldehyde,
- (o) hydrogen cyanide,
- (p) MDI (diphenylmethane diisocyanate),
- (q) nickel and nickel compounds,
- (r) PAH, as benzo[a]pyrene equivalent,
- (s) pentachlorophenol,
- (t) phosgene,
- (u) propylene oxide,
- (v) TDI (toluene-2,4-diisocyanate and toluene-2,6-diisocyanate),
- (w) trichloroethylene,
- (x) vinyl chloride.

scheduled premises means premises at which a scheduled activity is carried on.

standard fuel means any unused and uncontaminated solid, liquid or gaseous fuel that is:

- (a) a coal or coal-derived fuel (other than any tar or tar residues), or
- (b) a liquid or gaseous petroleum-derived fuel, or
- (c) a wood or wood-derived fuel, or
- (d) bagasse.

Type 1 substance means the elements antimony, arsenic, cadmium, lead or mercury or any compound containing one or more of those elements.

Type 2 substance means the elements beryllium, chromium, cobalt, manganese, nickel, selenium, tin or vanadium or any compound containing one or more of those elements.

volatile organic compound (VOC) means any chemical compound that:

- (a) is based on carbon chains or rings, and
- (b) contains hydrogen, and

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

-
- (c) has a vapour pressure greater than 2mm of mercury (0.27 kPa) at 25°C and 101.3 kPa,
and includes any such compound containing oxygen, nitrogen or other elements, but does not include methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonate salts.
- (2) For the purposes of this Part, plant is in *normal operation* if it is operating at a constant rate, whether or not it is operating at full capacity.
- (3) Subject to clause 22 (4), any activity or plant that belongs to both Group 6 and another group is taken to belong to Group 6.

Division 2 Standards of concentration for scheduled premises

21 General grouping of activities and plant

- (1) Subject to this Division, an activity carried out, or plant operated, on scheduled premises:
- (a) belongs to **Group 1** if:
- (i) it commenced to be carried on, or to operate, before 1 January 1972, or
- (ii) it commenced to be carried on, or to operate, on or after 1 January 1972 as a result of a pollution control approval granted under the *Pollution Control Act 1970* pursuant to an application made before 1 January 1972, or
- (b) belongs to **Group 2** if it commenced to be carried on, or to operate, on or after 1 January 1972 as a result of a pollution control approval granted under the *Pollution Control Act 1970* pursuant to an application made on or after 1 January 1972 and before 1 July 1979, or
- (c) belongs to **Group 3** if it commenced to be carried on, or to operate, on or after 1 July 1979 as a result of a pollution control approval granted under the *Pollution Control Act 1970* pursuant to an application made on or after 1 July 1979 and before 1 July 1986, or
- (d) belongs to **Group 4** if it commenced to be carried on, or to operate, on or after 1 July 1986 as a result of a pollution control approval granted under the *Pollution Control Act 1970* pursuant to an application made on or after 1 July 1986 and before 1 August 1997, or

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

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- (e) belongs to **Group 5** if it commenced to be carried on, or to operate, on or after 1 August 1997 as a result of:
 - (i) a pollution control approval granted under the *Pollution Control Act 1970* pursuant to an application made on or after 1 August 1997 and before 1 July 1999, or
 - (ii) an environment protection licence granted under the *Protection of the Environment Operations Act 1997* pursuant to an application made on or after 1 July 1999 and before 1 September 2005, or
 - (f) belongs to **Group 6** if it commenced to be carried on, or to operate, on or after 1 September 2005, as a result of an environment protection licence granted under the *Protection of the Environment Operations Act 1997* pursuant to an application made on or after 1 September 2005.
- (2) Any activity or plant that would, but for this subclause, belong to Group 6 is taken to belong to Group 5 if it is the subject of a development consent in respect of which the EPA had given general terms of approval (within the meaning of section 93 of the *Environmental Planning and Assessment Act 1979*) before 1 September 2005.

22 Effect on grouping of alteration or replacement of emission units

- (1) If:
 - (a) an emission unit in Group 1, 2, 3, 4 or 5 is altered as a result of:
 - (i) the modification of development consent under section 96 (2) of the *Environmental Planning and Assessment Act 1979* pursuant to an application made on or after 1 September 2005, or
 - (ii) the variation of the licence for the plant, and
 - (b) the effect of the alteration is that there is an increase in the emission of air impurities, or a change in the nature of the air impurities emitted or the intensity with which air impurities are emitted, from the plant of which the emission unit forms part, or to which it is attached,
the altered emission unit is taken to belong to Group 6.
- (2) If, in relation to plant operated in the Greater Metropolitan Area, an emission unit in Group 1, 2, 3, 4 or 5 is replaced, the replacement emission unit is taken to belong to Group 6.

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- (3) An emission unit is not taken to belong to Group 6 by virtue of subclause (1) or (2) if the conditions of the licence for the activity or plant of which it forms part, or to which it is attached, state that it is taken to belong to Group 1, 2, 3, 4 or 5.
 - (4) Plant that belongs to Group 1, 2, 3, 4 or 5 remains in that Group despite any alteration or replacement, as referred to in subclause (1) or (2), of an emission unit that forms part of, or is attached to, that plant.

23 Phasing out of Group 1

- (1) On and from 1 January 2008, any activity or plant that, immediately prior to that date, belonged to Group 1 is taken to belong to Group 2.
- (2) An activity or plant is not taken to belong to Group 2 by virtue of subclause (1) if the conditions of the licence for the activity or plant state that it is taken to belong to Group 1.
- (3) An application for the variation of the conditions of a licence for the purpose of including a statement referred to in subclause (2) must be made:
 - (a) in the case of an application for the first such variation, on or before 1 January 2007, and
 - (b) in the case of an application for any subsequent variation, no later than 12 months before the date on which the current variation expires pursuant to subclause (4).
- (4) A variation of the conditions of a licence under this clause expires at the end of 5 years after the date on which notice of the variation is given to the holder of the licence under section 58 of the Act.

24 Phasing out of Group 2

- (1) On and from 1 January 2012, any activity or plant that, immediately prior to that date, belonged to Group 2 (including any activity or plant previously in Group 1) is taken to belong to Group 5.
- (2) An activity or plant is not taken to belong to Group 5 by virtue of subclause (1) if the conditions of the licence for the activity or plant state that it is taken to belong to Group 1 or 2.
- (3) An application for the variation of the conditions of a licence for the purpose of including a statement referred to in subclause (2) must be made:

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- (a) in the case of an application for the first such variation, on or before 1 January 2011, and
 - (b) in the case of an application for any subsequent variation, no later than 12 months before the date on which the current variation expires pursuant to subclause (4).
- (4) A variation of the conditions of a licence under this clause expires at the end of 5 years after the date on which notice of the variation is given to the holder of the licence under section 58 of the Act.

25 Alternative standards of concentration imposed by licence conditions

An application for the variation of the conditions of a licence for any activity, plant or emission unit for the purpose of including a statement referred to in clause 22 (3), 23 (2) or 24 (2) is to be accompanied by a report containing each of the following:

- (a) particulars of the concentration or rates at which air impurities are emitted as a result of the carrying out of the activity or operation of the plant, based on sampling, analysis and monitoring carried out in accordance with the Approved Methods (Sampling and Analysis) Publication,
- (b) the results of an air pollutant impact assessment, conducted in accordance with the Approved Methods (Modelling and Assessment) Publication, in relation to:
 - (i) the activity, plant or emission unit concerned, and
 - (ii) any other activity carried on, or plant or emission unit operated, at the scheduled premises concerned,
- (c) details of any pollution reduction programs that have been established in relation to the activity, plant or emission unit,
- (d) details of any control equipment that has been installed in relation to the activity, plant or emission unit,
- (e) such other information as may be relevant to demonstrate the acceptability of impacts associated with the alternative standards arising from the proposed variation of conditions.

26 Determination of application for variation of licence

- (1) In determining an application to vary the conditions of a licence for any activity or plant for the purposes of clause 22, 23 or 24, the EPA must consider the impact on local and regional air quality and amenity of a decision to grant the application, having regard to:

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- (a) any pollution reduction programs that have been established, or that the holder of the licence has agreed to establish, in relation to the activity or plant, and
 - (b) any control equipment that has been installed, or that the holder of the licence has agreed to install, in relation to the activity or plant, and
 - (c) any load reduction agreement that has been entered into between the EPA and the applicant under Division 5 of Part 2.1 of the *Protection of the Environment Operations (General) Regulation 1998*, and
 - (d) the principles of ecologically sustainable development set out in section 6 (2) of the *Protection of the Environment Administration Act 1991*,
 - (e) such other matters as are relevant.
- (2) A statement referred to in clause 22 (3), 23 (2) or 24 (2) that is included in the conditions of the licence for any activity, plant or emission unit pursuant to an application made in accordance with clause 25 may not state that the activity or plant belongs to a Group with a lower number than that of the Group to which the activity or plant previously belonged.
 - (3) Nothing in this clause prevents the EPA, when granting an application to vary the conditions of a licence under this clause, from including other conditions in the licence, including conditions imposing more stringent standards of concentration than those applicable to the Group to which the activity or plant will belong as a consequence of the variation.

Note. Refusal of an application to vary the conditions of a licence may be appealed under section 287 of the Act. In this regard, an application is taken to have been refused if it is not granted within 60 days after it is duly made.

27 Prescribed standards of concentration for air impurities

- (1) For the purposes of section 128 (1) of the Act, the prescribed standards of concentration for emissions of air impurities are:
 - (a) in relation to any plant referred to in Schedule 2, the standards of concentration specified in that Schedule in relation to that plant, and
 - (b) in relation to any activity or plant specified in Schedule 3 in respect of a particular purpose, the standards of concentration specified in Schedule 3 in relation to that activity or plant and that purpose, and

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- (c) in relation to any activity or plant specified in Schedule 4 (other than those covered by Schedule 2 or 3), the standards of concentration specified in Schedule 4 in relation to that activity or plant.
- (2) For the purposes of this clause, a requirement in Schedule 2, 3 or 4 that a standard of concentration for volatile organic compounds or carbon monoxide be met is satisfied if either of those standards is met.

28 Procedures for determining whether prescribed standards of concentration have been exceeded

- (1) For the purpose of determining whether or not a standard of concentration prescribed by Schedule 2, 3 or 4 for an air impurity has been exceeded, the following procedures are to be applied:
 - (a) a sampling or monitoring position is to be selected in accordance with:
 - (i) TM-1, if the concentration is to be determined in accordance with the relevant test method, or
 - (ii) CEM-1 (if measuring opacity) or CEM-2 (in any other case), if the concentration is to be determined in accordance with the relevant monitoring method,
 - (b) the concentration of the air impurity is to be determined in accordance with the relevant test method, or relevant monitoring method, for the air impurity, using the relevant averaging period,
 - (c) the concentration determined under paragraph (b) (otherwise than for smoke) is to be expressed by reference to the relevant reference conditions for the standard of concentration after determining the following:
 - (i) the moisture content of the sample, determined in accordance with TM-22,
 - (ii) the temperature and pressure at the sampling position, determined in accordance with TM-2,
 - (iii) if a relevant reference condition is a specified percentage of carbon dioxide—the concentration of carbon dioxide emitted, determined in accordance with TM-24 or CEM-3,
 - (iv) if a relevant reference condition is a specified percentage of oxygen—the concentration of oxygen emitted, determined in accordance with TM-25 or CEM-3,

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- (d) the concentration determined under paragraph (b) for smoke (if determined as opacity) is to be expressed by reference to the relevant reference conditions for the standard of concentration.
- (2) For the purposes of this clause:
- (a) a reference to the *relevant test method* or *relevant monitoring method*, in relation to an air impurity, is a reference to the test method or monitoring method specified in Part 1 of Schedule 5 in relation to that air impurity, and
- (b) a reference to the *relevant averaging period*, in relation to an air impurity, is a reference to:
- (i) the averaging period specified in Part 2 of Schedule 5 in relation to that air impurity, or
- (ii) such other averaging period as may be specified in the conditions of the relevant licence, and
- (c) a reference to the *relevant reference conditions*, in relation to any air impurity emitted from an activity or plant, is a reference to:
- (i) the reference conditions specified in Part 3 of Schedule 5 in relation to that air impurity and that activity or plant, or
- (ii) such other reference conditions as may be specified in the conditions of the relevant licence.

29 Test methods and toxic equivalence factors for dioxins and furans

- (1) For the purpose of determining whether or not a standard of concentration prescribed by Schedule 2, 3 or 4 for dioxins or furans has been exceeded, the following procedures are to be applied in addition to the procedures set out in clause 28:
- (a) the unweighted concentration of each dioxin or furan is to be determined in accordance with TM-18, using the measuring period specified in that test method,
- (b) the unweighted concentration of each dioxin or furan so determined is to be multiplied by the toxic equivalence factor set out in the Table to this clause in respect of that dioxin or furan.

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- (2) For the purposes of clause 27, the concentration of dioxins and furans is taken to be the sum of the amounts calculated under subclause (1) (b).

Table

| Substance | Toxic Equivalence Factor |
|--|--------------------------------|
| Dioxins | |
| 2,3,7,8 tetrachlorodibenzodioxin (TCDD) | 1.0 |
| 1,2,3,7,8 pentachlorodibenzodioxin (PeCDD) | 1.0 |
| 1,2,3,4,7,8 hexachlorodibenzodioxin (HxCDD) | 0.1 |
| 1,2,3,6,7,8 hexachlorodibenzodioxin (HxCDD) | 0.1 |
| 1,2,3,7,8,9 hexachlorodibenzodioxin (HxCDD) | 0.1 |
| 1,2,3,4,6,7,8 heptachlorodibenzodioxin (HpCDD) | 0.01 |
| octachlorodibenzodioxin (OCDD) | 0.0001 |
| Furans | |
| 2,3,7,8 tetrachlorodibenzofuran (TCDF) | 0.1 |
| 1,2,3,7,8 pentachlorodibenzofuran (PeCDF) | 0.05 |
| 2,3,4,7,8 pentachlorodibenzofuran (PeCDF) | 0.5 |
| 1,2,3,4,7,8 hexachlorodibenzofuran (HxCDF) | 0.1 |
| 1,2,3,6,7,8 hexachlorodibenzofuran (HxCDF) | 0.1 |
| 1,2,3,7,8,9 hexachlorodibenzofuran (HxCDF) | 0.1 |
| 2,3,4,6,7,8 hexachlorodibenzofuran (HxCDF) | 0.1 |
| 1,2,3,4,6,7,8 heptachlorodibenzofuran (HpCDF) | 0.01 |
| 1,2,3,4,7,8,9 heptachlorodibenzofuran (HpCDF) | 0.01 |
| octachlorodibenzofuran (OCDF) | 0.0001 |

30 Meaning of “approved circumstances” in relation to smoke emissions

- (1) For the purposes of Schedules 2, 3 and 4 (otherwise than in relation to ceramic works referred to in Schedule 3), the *approved circumstances*, in relation to the emission of smoke from any activity or plant in Group 1, are:
- (a) that the smoke is emitted:

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- (i) for a period of no more than 20 minutes per 24 hours, after lighting a boiler or incinerator from cold, being the period during which the boiler or incinerator is brought up to normal operation, or
 - (ii) in the case of a boiler burning up to 1 tonne of fuel per hour (unless subparagraph (i) applies)—for a period of no more than 10 minutes per 8 hours, or
 - (iii) in the case of a boiler burning more than 1 tonne but less than 5 tonnes of fuel per hour (unless subparagraph (i) applies)—for a period of no more than 20 minutes per 8 hours, and
 - (b) that all practicable means are employed to prevent or minimise the emission of smoke during that period.
- (2) For the purposes of Schedule 3 (in relation to ceramic works referred to in that Schedule), the *approved circumstances*, in relation to the emission of smoke from any activity or plant in Group 1, are:
- (a) that the smoke is emitted for a period of no more than 10 minutes per hour, and
 - (b) that all practicable means are employed to prevent or minimise the emission of smoke during that period.
- (3) For the purposes of Schedules 2, 3 and 4, the *approved circumstances*, in relation to the emission of smoke from any activity or plant in Group 2, 3, 4, 5 or 6, are:
- (a) that smoke is emitted, as a result of blowing soot from a boiler, for a period of no more than 10 minutes per 8 hours, and
 - (b) that all practicable means are employed to prevent or minimise the emission of smoke during that period.
- 31 EPA may approve alternative restrictions on hydrogen sulfide emissions**
- (1) The EPA may grant an approval to an occupier of scheduled premises for an alternative standard of concentration for hydrogen sulfide emissions.
 - (2) If an occupier has been granted such an approval, and the occupier complies with the alternative standard of concentration and any other conditions specified in the approval, the occupier is exempt from the operation of section 128 of the Act, in so far as that section relates to the emission of hydrogen sulfide.

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- (3) Before granting an approval under this clause the EPA:
 - (a) must take into consideration the impact of the approval on local and regional air quality and amenity, and
 - (b) must be satisfied that it is not practicable for the occupier to comply with the standards prescribed by clause 27 by implementing operational changes to plant or practices, and
 - (c) must be satisfied that the alternative standard of concentration for hydrogen sulfide emissions has been calculated in accordance with the Approved Methods (Modelling and Assessment) Publication.
- (4) The EPA is to grant an approval under this clause by means of a written notice given to the occupier.
- (5) An approval under this clause:
 - (a) is subject to any conditions that may be specified in the approval (including the method of measuring the concentration of hydrogen sulfide emissions), and
 - (b) may be amended or revoked by the EPA by means of a written notice given to the occupier.

Division 3 Standards of concentration for non-scheduled premises

32 Grouping of activities and plant

- (1) Subject to subclause (2), an activity carried out, or plant operated, on non-scheduled premises:
 - (a) belongs to **Group A** if:
 - (i) it commenced to be carried on, or to operate, before 1 August 1997, or
 - (ii) it commenced to be carried on, or to operate, on or after 1 August 1997 as a result of development consent granted pursuant to a development application made before 1 August 1997, or
 - (b) belongs to **Group B** if it commenced to be carried on, or to operate, on or after 1 August 1997 as a result of development consent granted pursuant to a development application made on or after 1 August 1997 and before 1 September 2005, or

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- (c) belongs to **Group C** if it commenced to be carried on, or to operate, on or after 1 September 2005 as a result of development consent granted pursuant to a development application made on or after 1 September 2005.
 - (2) If, in relation to plant operated in the Greater Metropolitan Area, an emission unit in Group A or B is replaced, the replacement emission unit is taken to belong to Group C.

33 Prescribed standards of concentration for air impurities

For the purposes of section 128 (1) of the Act, the prescribed standards of concentration for the emission of air impurities in relation to any activity carried on, or plant operated, at non-scheduled premises are as set out in Schedule 6.

34 Procedures for determining whether prescribed standards of concentration have been exceeded

- (1) For the purpose of determining whether or not a standard of concentration prescribed by Schedule 6 for an air impurity has been exceeded, the following procedures are to be applied:
 - (a) a sampling or monitoring position is to be selected in accordance with:
 - (i) TM-1, if the concentration is to be determined in accordance with the relevant test method, or
 - (ii) CEM-1 (if measuring opacity) or CEM-2 (in any other case), if the concentration is to be determined in accordance with the relevant monitoring method,
 - (b) the concentration of the air impurity is to be determined in accordance with the relevant test method, or relevant monitoring method, for the air impurity, using the relevant averaging period,
 - (c) the concentration determined under paragraph (b) (otherwise than for smoke) is to be expressed by reference to the relevant reference conditions for the standard of concentration after determining the following:
 - (i) the moisture content of the sample, determined in accordance with TM-22,
 - (ii) the temperature and pressure at the sampling position, determined in accordance with TM-2,
 - (iii) if a relevant reference condition is a specified percentage of carbon dioxide—the concentration of carbon dioxide emitted, determined in accordance with TM-24 or CEM-3,

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- (iv) if a relevant reference condition is a specified percentage of oxygen—the concentration of oxygen emitted, determined in accordance with TM-25 or CEM-3,
 - (d) the concentration determined under paragraph (b) for smoke (if determined as opacity) is to be expressed by reference to the relevant reference conditions for the standard of concentration.
 - (2) For the purposes of this clause:
 - (a) a reference to the *relevant test method* or *relevant monitoring method*, in relation to an air impurity, is a reference to the test method or monitoring method specified in Part 1 of Schedule 7 in relation to that air impurity, and
 - (b) a reference to the *relevant averaging period*, in relation to an air impurity, is a reference to the averaging period specified in Part 2 of Schedule 7 in relation to that air impurity, and
 - (c) a reference to the *relevant reference conditions*, in relation to any air impurity emitted from an activity or plant, is a reference to the reference conditions specified in Part 3 of Schedule 7 in relation to that air impurity and that activity or plant.

35 Meaning of “approved circumstances” in relation to smoke emissions

- (1) For the purposes of Schedule 6, the *approved circumstances* for marine vessels are:
 - (a) that the smoke is emitted from a marine vessel:
 - (i) for the period the vessel is approaching, leaving or manoeuvring at a berth, or
 - (ii) for a period of no more than 30 minutes per 24 hours, after lighting a boiler, being the period during which the boiler is brought up to normal operation, and
 - (b) that all practicable means are employed to prevent or minimise the emission of smoke during that period.
- (2) For the purposes of Schedule 6, the *approved circumstances* for premises other than marine vessels are:
 - (a) that the smoke is emitted from the premises:

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- (i) for a period of no more than 20 minutes per 24 hours, after lighting a boiler or incinerator from cold, being the period during which the boiler or incinerator is brought up to normal operation, or
 - (ii) for a period of no more than 10 minutes per 8 hours, as a result of blowing soot from a boiler, and
- (b) that all practicable means are employed to prevent or minimise the emission of smoke during that period.

**Division 4 Additional provisions for Group 6
afterburners, flares and vapour recovery
units etc**

36 Application of Division

This Division applies only in respect of afterburners and other thermal treatment plant, flares and vapour recovery units and other non-thermal treatment plant that are in Group 6 (*Group 6 treatment plant*).

37 Offence

An occupier of premises on which any Group 6 treatment plant is operated must ensure that the requirements of this Division relating to the operation of any such plant are complied with.

Maximum penalty: 400 penalty units (in the case of a corporation) or 200 penalty units (in the case of an individual).

38 Residence time

- (1) An afterburner, other than one that employs a catalytic control system, must be operated in such a way that the time between an air impurity entering and exiting the afterburner is:
 - (a) more than 2 seconds if the air impurity originates from material containing any principal toxic air pollutant, or
 - (b) more than 0.3 seconds in any other case.
- (2) An enclosed ground-level flare for the treatment of landfill gas must be operated in such a way that the time between landfill gas entering and exiting the flare is more than 0.6 seconds.
- (3) For the purposes of this clause, the time elapsing between an air impurity (including landfill gas) entering and exiting an afterburner or flare is to be calculated:

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- (a) using the volumetric flow rate for the air impurity, as determined in accordance with TM-2 or CEM-6, and
 - (b) using a 1 hour rolling averaging period.

39 Combustion temperature

- (1) An afterburner, other than one that employs a catalytic control system, must be operated in such a way that the temperature for the combustion of an air impurity by the afterburner is:
 - (a) more than 980°C if the air impurity originates from material containing any principal toxic air pollutant, or
 - (b) more than 760°C, in any other case.
- (2) An enclosed ground-level flare for the treatment of landfill gas must be operated in such a way that the temperature for the combustion of landfill gas by the flare is more than 760°C.
- (3) A reference in this clause to the temperature for the combustion of an air impurity (including landfill gas) is a reference to that temperature as determined in accordance with TM-2, using a 1 hour rolling averaging period.

40 Destruction efficiency

- (1) Group 6 treatment plant (other than flares) must be operated in such a way that the destruction efficiency of the plant, in relation to an air impurity entering the plant, is:
 - (a) if the air impurity originates from material containing any principal toxic air pollutant—more than 99.9999%, or
 - (b) in any other case—more than 99.99%.
- (2) An enclosed ground-level flare for the treatment of landfill gas must be operated in such a way that the destruction efficiency of the flare, in relation to landfill gas entering the flare, is more than 98%.
- (3) A reference in this clause to the destruction efficiency of Group 6 treatment plant in relation to an air impurity (including landfill gas) is a reference to the destruction efficiency of the plant, in relation to the air impurity, calculated by using the following equation:

$$DE = [1 - (MW_{out}/MW_{in})] \times 100$$

where:

DE is the destruction efficiency, expressed as a percentage.

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MW_{out} is the mass emission rate of the air impurity in exhaust emissions prior to its release to the atmosphere using a 1 hour rolling averaging period.

MW_{in} is the mass feed rate of the air impurity in a waste feedstream using a 1 hour rolling averaging period.

41 Flares

A flare operated for the treatment of air impurities must be operated in such a way that a flame is present at all times while air impurities are required to be treated.

Division 5 Miscellaneous

42 Emission points (cf Clean Air (Plant and Equipment) Regulation 1997, cl 4)

- (1) For the purposes of section 128 (1) of the Act, the point at which the standard of concentration, or rate of emission, of air impurities resulting from the carrying on of any activity, or the operation of any plant, on any premises is not to be exceeded is a point between:
 - (a) the point of origin of the air impurities, that is:
 - (i) the point where the air impurities originate, or
 - (ii) if the air impurities subsequently pass through any control equipment—the point where the air impurities emerge from that equipment, and
 - (b) the point of release of the air impurities, that is:
 - (i) the point where the air impurities pass into the atmosphere, or
 - (ii) if air, gas or vapour is added to the air impurities before that point after passing through any control equipment, the point immediately before the point where the air, gas or vapour is added.
- (2) In any case where there is more than one point of release applying in relation to any activity or plant, a reference in subclause (1) to the point of release is a reference to all of the points of release applying in relation to the activity or plant.

43 Combination of air impurities from 2 or more sources

- (1) This clause applies to an air impurity that is combined with any air impurity of the same kind, or with any other air, gas or vapour, from any other source on scheduled premises before being emitted.

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- (2) For the purposes of section 128 (1) of the Act, the prescribed standard of concentration for the emission of an air impurity to which this clause applies is to be determined in accordance with TM-38.
 - (3) Nothing in this clause authorises the emission of an air impurity in excess of the standard of concentration prescribed for the emission of the air impurity by Divisions 2 and 3.
 - (4) A reference in this clause to a source is a reference to an activity or item of plant.

44 Prescribed standards of concentration not to affect other controls

For the avoidance of doubt, this Part does not authorise the occupier of premises to carry on an activity, or operate any plant, in or on the premises in such a manner as to cause or permit the emission of air impurities in excess of those allowed by any other controls that apply in respect of the activity or plant (such as a licence or a development consent granted under the *Environmental Planning and Assessment 1979*).

45 Exemptions from prescribed standards of concentration

The standards of concentration prescribed by this Part do not apply to or in relation to any plant during the following periods:

- (a) a *start-up* period—that is, while the plant is being brought up to normal operation following a period of inactivity,
- (b) a *shutdown* period—that is, while the plant is being taken out of service from normal operation to inactivity.

Note. While the standards prescribed by this Part do not apply, the occupier of the premises concerned will be subject to the requirements of section 128 (2) of the Act in relation to the prevention and minimisation of air pollution.

46 Exemption from prescribed standards of concentration for the emission of smoke

- (1) The EPA may, by written notice given to a public authority, exempt the public authority from the operation of section 128 of the Act and Divisions 2 and 3, in so far as those provisions relate to the emission of smoke.
- (2) The EPA may only grant such an exemption in relation to smoke emitted in the course of the following activities:
 - (a) research to improve safety in relation to the flammability of materials and smoke reduction (including the development of testing procedures),

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- (b) training of fire-fighters and the rating of the effectiveness of fire extinguishers and fire suppression systems,
 - (c) testing undertaken to certify that manufactured or imported products comply with Australian Standards or International Standards and meet any legislative requirements placed on them.
- (3) Before granting an exemption under this clause, the EPA:
- (a) must take into consideration the impact of the exemption on local and regional air quality and amenity, and
 - (b) must be satisfied that it is not practicable for the public authority to comply with the provisions referred to in subclause (1), in relation to the emission of smoke, by implementing operational changes to plant or practices.
- (4) An exemption under this clause:
- (a) is subject to any conditions that may be specified in the written notice by which it is granted, and
 - (b) may be amended or revoked by means of a further written notice given to the public authority, and
 - (c) unless sooner revoked by the EPA, remains in force:
 - (i) for a period of 12 months from the date it is granted, or
 - (ii) for any other period specified in the written notice by which it is granted.
- (5) In this clause:
- Australian Standard*** means a standard published by Standards Australia.
- International Standard*** means a standard published by the International Organization for Standardization.

Part 5 Control of volatile organic liquids

47 Definitions

In this Part:

delivery tank means a tank mounted on a tank vehicle (not being the fuel tank of the vehicle).

large loading plant means industrial plant that is used for loading volatile organic liquid, at a rate of more than 30 megalitres per year, into the delivery tanks of large tank vehicles.

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large storage tank means a storage tank having a capacity of 150 kilolitres or more.

large tank vehicle means a tank vehicle having one or more delivery tanks with a total capacity of more than 12 kilolitres.

small storage tank means a storage tank having a capacity of 8 kilolitres or more but less than 150 kilolitres.

storage tank means a tank that is installed on any premises (other than a vessel).

tank means a container, or an isolated section of a container, that is used or designed to be used for the storage of volatile organic liquid, but does not include anything that is designed to hold volatile organic liquid under pressure and to prevent the emission of any volatile organic liquid or volatile organic liquid vapour.

tank vehicle means a vehicle used or designed to be used for the transport of volatile organic liquid from one tank to another, whether or not the vehicle is moveable under its own power, but does not include a railway vehicle.

volatile organic liquid means any organic compound that exists as a liquid at actual conditions of use or storage, unless it has a true vapour pressure of less than or equal to 25.8mm Hg (0.5 psia).

48 Equipment and plant to be fitted with prescribed control equipment

- (1) Unless exempted from the provisions of this clause by clause 49 or by the EPA under section 284 of the Act, the occupier of any premises must not use or operate, or cause or allow to be used or operated, any fuel burning equipment or industrial plant in or on those premises unless that equipment or plant is fitted with the control equipment prescribed by this Part.
- (2) The occupier of any premises in or on which is installed any fuel burning equipment or industrial plant fitted with control equipment prescribed by this Part must, if specifications for the maintenance or operation of that fuel burning equipment, industrial plant or control equipment are prescribed by this Part, ensure that those specifications are complied with.
- (3) An occupier who contravenes this clause is guilty of an offence.
Maximum penalty: 400 penalty units (in the case of a corporation) or 200 penalty units (in the case of an individual).

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49 Exemptions from requirement for prescribed control equipment

- (1) The occupier of any premises is exempt from the operation of clause 48 in relation to any industrial plant if:
 - (a) the plant is fitted with control equipment that is approved by the EPA by notice in writing to the occupier, and
 - (b) the plant and control equipment are maintained and operated in such manner as the EPA specifies in that notice of approval.
- (2) The occupier of any premises is exempt from the operation of clause 48 in relation to small storage tanks if:
 - (a) the EPA is satisfied that the volume of volatile organic liquid loaded into the storage tanks on those premises per year does not usually exceed 600 kilolitres, and
 - (b) the EPA grants an exemption from the operation of that clause by notice in writing to the occupier, and
 - (c) the occupier complies with such conditions as the EPA specifies in the exemption.
- (3) The EPA may vary or revoke an approval or exemption under this clause at any time by notice in writing served on the holder of the approval or exemption.

50 Prescribed control equipment for large storage tanks

- (1) This clause applies to any large storage tank situated anywhere within the Sydney, Newcastle or Wollongong Metropolitan Area.
- (2) For the purposes of clause 48, the following control equipment is the prescribed control equipment to be fitted to any large storage tank:
 - (a) a drainage system comprising a small sump or tundish fitted under each water draw-off valve and connected to a totally enclosed drain,
 - (b) if the volatile organic liquid stored in the tank has a vapour pressure of or below 75 kilopascals:
 - (i) a floating metal roof that, under normal operating conditions, floats on the surface of the liquid, or
 - (ii) a floating cover constructed of material impervious to vapour that, under normal operating conditions, floats on the surface of the liquid inside a fixed roof, or

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- (iii) a vapour disposal or recovery system of the kind referred to in subclause (6),
 - (c) if the volatile organic liquid stored in the tank has a vapour pressure above 75 kilopascals, a vapour disposal or recovery system of the kind referred to in subclause (6).
- (3) Subclause (2) (a) does not apply in the case of tanks used for the storage of volatile organic liquid (other than crude petroleum) received by tank-to-tank transfer from other storage tanks.
- (4) A floating roof or cover referred to in subclause (2) (b) must be constructed so as to prevent the escape of vapour through the roof or cover and so that:
 - (a) vapour beneath the floating roof or cover is contained by skirt plates situated near the edges of the roof or cover and surrounding any openings in the roof or cover or by similar means, and
 - (b) the roof or cover is equipped with one or more closure seals to close the spaces between the roof or cover and the tank walls and between any openings in the roof or cover and any equipment passing through those openings, and
 - (c) seals on floating roofs are shielded from the weather, and
 - (d) weather-shields are moveable to permit proper inspection of seals.
- (5) For the purposes of clause 48 (2), the level of volatile organic liquid in a large storage tank that is fitted with a floating roof or cover referred to in subclause (2) (b) must be maintained, during normal operating conditions, at a depth sufficient to prevent the supports of the floating roof or cover from resting on the floor of the tank.
- (6) A vapour disposal or recovery system referred to in subclause (2) (b) or (c) must be constructed so that the vapour emitted from the tank:
 - (a) is incinerated, so that the total concentration of unburnt vapour emitted to the atmosphere does not exceed 1.5 grams per cubic metre of the gases resulting from the incineration process, or
 - (b) is recovered, so that the total concentration of unrecovered vapour emitted to the atmosphere during any period of 4 hours does not exceed 110 milligrams per litre of volatile organic liquid passing into the tank during that period.

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- (7) The total concentration of unburnt vapour referred to in subclause (6) (a) is to be determined as set out in TM-19, the total concentration of unrecovered vapour referred to in subclause (6) (b) is to be determined as set out in TM-20 and the calculation of the vapour pressure of volatile organic liquid stored in tanks is to be carried out in accordance with TM-21.
 - (8) Subclauses (6) and (7) do not apply to large storage tanks on scheduled premises, within the meaning of Part 4, that belong to Group 6, within the meaning of that Part.

51 Prescribed control equipment for large loading plant

- (1) This clause applies to any large loading plant situated anywhere within the Sydney Metropolitan Area.
- (2) For the purposes of clause 48, the following control equipment is the prescribed control equipment to be fitted to large loading plant:
 - (a) a vapour collection system by which all vapour displaced from tanks during loading operations is collected and conveyed to a vapour recovery or disposal system through vapour lines having an internal diameter of not less than 65 per cent of the largest fill-line used for connection to the delivery tank,
 - (b) an interlock system that prevents the loading of a delivery tank unless the vapour collection system is first connected to that tank,
 - (c) fittings on all liquid and vapour lines that make vapour-tight connections with the respective mating fittings on the delivery tank and that close automatically when disconnected,
 - (d) a vapour recovery or disposal system of the kind referred to in subclause (4).
- (3) The interlock system referred to in subclause (2) (b) is taken not to be prescribed for the purposes of clause 48 if it forms part of industrial plant used only for loading delivery tanks that are themselves fitted with such an interlock system.
- (4) A vapour recovery or disposal system referred to in subclause (2) (d) must be constructed so that the vapour resulting from loading operations:
 - (a) is incinerated, so that the total concentration of unburnt vapour emitted to the atmosphere does not exceed 1.5 grams per cubic metre of the gases resulting from the incineration process, or

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- (b) is recovered, so that the total concentration of unrecovered vapour emitted to the atmosphere during any period of 4 hours does not exceed 110 milligrams per litre of volatile organic liquid passing out of the plant during that period.
- (5) The total concentration of unburnt vapour referred to in subclause (4) (a) is to be determined as set out in TM-19 and the total concentration of unrecovered vapour referred to in subclause (4) (b) is to be determined as set out in TM-20.
- (6) Subclauses (4) and (5) do not apply to large storage tanks on scheduled premises, within the meaning of Part 4, that belong to Group 6, within the meaning of that Part.

52 Prescribed control equipment for small storage tanks

- (1) This clause applies to any small storage tank situated anywhere within the Sydney Metropolitan Area other than the local government area of Hawkesbury.
- (2) For the purposes of clause 48, the following control equipment is the prescribed control equipment to be fitted to a small storage tank:
 - (a) a vapour transfer system by which all vapour displaced by the transfer of volatile organic liquid into the storage tank is returned to the delivery tank being unloaded by means of a vapour return line,
 - (b) a coupling on the vapour return line that makes a vapour-tight connection with the vapour return hose on the delivery tank and that closes automatically when disconnected,
 - (c) in the case of a tank that is filled by the operation of gravity, an overfill protection system designed to stop the flow of volatile organic liquid into the storage tank before there is insufficient space in that tank to receive the contents of the tank vehicle's transfer hose,
 - (d) a coupling on the storage tank's fill-pipe that makes a liquid-tight connection with the delivery tank's liquid transfer hose,
 - (e) in the case of a storage tank located above the ground, pressure vacuum valves on all atmospheric vents.
- (3) The vapour transfer system referred to in subclause (2) (a) may be used to serve more than one storage tank on the same premises.

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- (4) A vapour return line referred to in subclause (2) (a) must be of vapour-tight construction and must have an internal diameter:
- (a) in the case of such part of the vapour return line as is upstream of the first fitting or change in direction from the tank:
 - (i) not less than 50 per cent of the internal diameter of the fill-pipe, or
 - (ii) in the case of a tank installed before 1 May 1982 and in which the vapour return line is taken from the atmospheric vent, as large as practicable having regard to the internal diameter of the existing vent connection, and
 - (b) in the case of such part of the vapour return line as is downstream of the first fitting or change in direction from the tank, not less than 65 per cent of the internal diameter of the fill-pipe.
- (5) The pressure vacuum valves referred to in subclause (2) (e):
- (a) except as provided in paragraph (b), must be set to be closed when the pressure in the tank is between 15 kilopascals above, and 0.5 kilopascals below, ambient pressure, or
 - (b) in the case of tanks installed before 1 May 1982, may be set to be closed when the pressure in the tank is between the design operating maximum pressure and the design operating maximum vacuum.
- (6) For the purposes of clause 48 (2), a hatch, manhole or other cover on or associated with a storage tank fitted with the prescribed control equipment referred to in subclause (2) must not be opened if, in so doing, vapour would be likely to be emitted to the atmosphere, except:
- (a) in an emergency, or
 - (b) for the purpose of tank gauging or sampling through a dip hatch (when no liquid transfer hoses are connected to the tank or when any connected hoses are closed), or
 - (c) for the purpose of reasonable maintenance.

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53 Prescribed control equipment for large tank vehicles

- (1) This clause applies to:
- (a) the loading of a large tank vehicle from large loading plant, and
 - (b) the unloading of a large tank vehicle into a small storage tank,

where the loading or unloading takes place anywhere within the Sydney Metropolitan Area.

- (2) The owner of a tank vehicle must not use the tank vehicle, or allow the tank vehicle to be used, to load or unload volatile organic liquid unless the tank vehicle is fitted with the following control equipment and the equipment is maintained in an efficient condition:
- (a) a vapour handling system for the transfer between delivery tanks of vapour displaced during loading or unloading operations,
 - (b) an overfill protection device, located in the delivery tank, that is designed to stop the flow of volatile organic liquid into the tank as near as practicable to the level of minimum ullage,
 - (c) couplings on liquid transfer pipes and hoses on the tank vehicle that make a liquid-tight connection with the respective mating fittings and that, in the case of liquid transfer pipes, close automatically when disconnected,
 - (d) hatch covers on any openings that are required to be vapour-tight when closed,
 - (e) pressure vacuum valves on all atmospheric vents (except emergency vents) that are set to be closed when the pressure in the tank is between 15 kilopascals above, and 3 kilopascals below, ambient pressure, being valves that may be fitted with a vent by-pass or pilot-bleed system if the maximum area for free venting is limited to 15 square millimetres.

Maximum penalty: 200 penalty units (in the case of a corporation) or 40 penalty units (in the case of an individual).

- (3) The vapour handling system referred to in subclause (2) (a) must comply with the following requirements:
- (a) the delivery tank must be fitted with a vapour transfer valve connecting the tank, through a manifold if desired, to a vapour line coupling or permanently connected vapour hose,

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- (b) the vapour transfer valve:
 - (i) must be interlocked with the delivery valve, so as to be open whenever volatile organic liquid is being transferred to or from the tank, and
 - (ii) if the vapour return hose is not permanently connected to the delivery tank, must be interlocked with the vapour line coupling on the delivery tank, so as to be closed unless the vapour return hose is attached to that coupling,
 - (c) unless the delivery tank is fitted with a permanently connected vapour hose, the tank vehicle must carry a vapour return hose of vapour-tight construction, fitted to connect:
 - (i) at one end, to the vapour line coupling on the vehicle, and
 - (ii) at the other end, to a vapour return coupling at the liquid loading or unloading plant,
 - (d) the vapour line (including any vapour hose carried by the vehicle) must have an internal diameter of not less than 65 per cent of the internal diameter of the largest liquid transfer hose carried by the vehicle,
 - (e) couplings on vapour transfer hoses on the tank vehicle must make vapour-tight connections with the respective fittings on the vehicle.
- (4) A person is exempt from the operation of this clause if:
- (a) the vehicle is fitted with control equipment that is approved by the EPA by notice in writing to the owner of the vehicle, and
 - (b) the vehicle and control equipment are maintained and operated in such manner as the EPA specifies in that notice of approval.
- (5) The EPA may vary or revoke an approval or exemption under this clause at any time by notice in writing served on the holder of the approval or exemption.

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54 Loading and unloading large tank vehicles

- (1) This clause applies to:
 - (a) the loading of a large tank vehicle from large loading plant, and
 - (b) the unloading of a large tank vehicle into a small storage tank,
where the loading or unloading takes place anywhere within the Sydney Metropolitan Area.
- (2) While a tank vehicle is being loaded with volatile organic liquid from large loading plant, the person in charge of the vehicle must ensure that the delivery tank mounted on the vehicle is properly connected to the vapour collection system of that plant.
Maximum penalty: 200 penalty units (in the case of a corporation) or 40 penalty units (in the case of an individual).
- (3) While a tank vehicle is being used to load volatile organic liquid into a small storage tank, the person in charge of the vehicle must ensure that:
 - (a) before any such loading takes place, the vapour return hose is connected to the appropriate vapour line coupling on the tank vehicle (except in the case of a permanently connected hose) and to the appropriate vapour return coupling on or associated with the storage tank, and
 - (b) the vapour return hose is not disconnected while volatile organic liquid is being loaded into the storage tank, and
 - (c) the connection or disconnection of any hose is done in such a manner as to avoid or minimise spillage, and
 - (d) the liquid transfer hose is not disconnected from the storage tank until the hose is empty of liquid.Maximum penalty: 200 penalty units (in the case of a corporation) or 40 penalty units (in the case of an individual).
- (4) The person in charge of a tank vehicle must not, without reasonable excuse, leave open a hatch, manhole or other cover on any delivery tank mounted on the vehicle if to do so would be likely to result in vapour being emitted to the atmosphere.
Maximum penalty: 200 penalty units (in the case of a corporation) or 40 penalty units (in the case of an individual).

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Part 6 Limits on sulfur content of liquid fuel

55 Limits on sulfur content of liquid fuel

- (1) A person must not, anywhere in the Sydney, Wollongong, Newcastle or Central Coast Metropolitan Area, operate any fuel burning equipment with liquid fuel having a sulfur content of more than 0.5 per cent by weight, as measured in accordance with TM-6.

Maximum penalty: 200 penalty units (in the case of a corporation) or 40 penalty units in the case of an individual.

- (2) A person must not, anywhere outside the Sydney, Wollongong, Newcastle or Central Coast Metropolitan Area, operate any fuel burning equipment with liquid fuel having a sulfur content of more than 2.5 per cent by weight, as measured in accordance with TM-6.

Maximum penalty: 200 penalty units (in the case of a corporation) or 40 penalty units (in the case of an individual).

- (3) This clause does not prevent a person from operating fuel burning equipment with liquid fuel having a sulfur content in excess of a limit imposed by subclause (1) or (2) in the following circumstances:

- (a) circumstances in which the emissions of sulfur compounds to the atmosphere arising from the operation of the equipment are restricted (by means of control equipment or otherwise) in such a manner that they are no greater than they would be if the equipment were operated (in the absence of any such restriction) with fuel having a sulfur content within the relevant limit,
- (b) circumstances in which the liquid fuel is used for the lighting-up or flame-stabilising of fuel burning equipment designed primarily to burn solid fuel and the sulfur content of the liquid fuel is no more than 2.5 per cent by weight,
- (c) circumstances in respect of which the person operating the fuel burning equipment holds a written exemption issued by the EPA, being circumstances that, in the opinion of the EPA, are special circumstances in respect of the fuel burning equipment or the premises in which the fuel burning equipment is installed,

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- (d) circumstances in which:
 - (i) the emissions of sulfur compounds to the atmosphere arising from the operation of the fuel burning equipment are restricted (by means of control equipment or otherwise) in accordance with the requirements of a licence, and
 - (ii) the fuel has a sulfur content within the limits imposed by that licence.
- (4) It is a defence to a prosecution for an offence arising under this clause if the defendant establishes that:
 - (a) the fuel burning equipment was being operated with liquid fuel supplied under an order placed by the defendant for liquid fuel conforming to the relevant requirements of this clause, and
 - (b) the defendant had reasonable grounds to believe, and did in fact believe, that the sulfur content of the liquid fuel conformed to those requirements.

Part 7 Miscellaneous

56 Savings relating to domestic solid fuel heaters

Any act, matter or thing that, immediately before the repeal of the *Clean Air (Domestic Solid Fuel Heaters) Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

57 Savings relating to motor vehicles and motor vehicle fuels

- (1) Any act, matter or thing that, immediately before the repeal of the *Clean Air (Motor Vehicles and Motor Vehicle Fuels) Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.
- (2) Without limiting the generality of subclause (1), any exemption or certificate issued under a provision of the *Clean Air (Motor Vehicles and Motor Vehicle Fuels) Regulation 1997* and in force immediately before the repeal of that Regulation is taken to have been issued under the corresponding provision of this Regulation and is subject to the same terms and conditions on which it was issued.

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[4] Schedules 2–7

Omit Schedule 2. Insert instead:

**Schedule 2 Standards of concentration for
scheduled premises: afterburners,
flares and vapour recovery units**

(Clause 27)

| Afterburners and other thermal treatment plant (excluding flares) | | | |
|---|--|----------------------------------|---|
| Air impurity | Plant | Standard of concentration | |
| Solid particles (Total) | Any afterburner or other thermal treatment plant treating air impurities that originate from material containing any principal toxic air pollutant | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any afterburner or other thermal treatment plant | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 350 mg/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any afterburner or other thermal treatment plant treating air impurities that originate from material containing any principal toxic air pollutant | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 20 mg/m ³ VOCs or 125 mg/m ³ CO |
| | Any afterburner or other thermal treatment plant treating air impurities that originate from material not containing any principal toxic air pollutant | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Hydrogen chloride (HCl) | Any afterburner or other thermal treatment plant treating air impurities that originate from material containing any principal toxic air pollutant | Group 1, 2, 3 or 4 | 400 mg/m ³ |
| | | Group 5 or 6 | 100 mg/m ³ |

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| Afterburners and other thermal treatment plant (excluding flares) | | | |
|--|--|------------------------------------|-----------------------------|
| Air impurity | Plant | Standard of concentration | |
| Type 1 substances (in aggregate) | Any afterburner or other thermal treatment plant treating air impurities that originate from material containing any principal toxic air pollutant | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any afterburner or other thermal treatment plant treating air impurities that originate from material containing any principal toxic air pollutant | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |
| Cadmium (Cd) or mercury (Hg) individually | Any afterburner or other thermal treatment plant treating air impurities that originate from material containing any principal toxic air pollutant | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any afterburner or other thermal treatment plant treating air impurities that originate from material containing any principal toxic air pollutant | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Smoke | Any afterburner or other thermal treatment plant treating air impurities that originate from material containing any principal toxic air pollutant | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6 | Ringelmann 1 or 20% opacity |

| Flares | | | |
|--|---|----------------------------------|---------------------------|
| Air impurity | Plant | Standard of concentration | |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any enclosed ground-level flare treating landfill gas | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs |

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| Flares | | | |
|---------------------|--------------|------------------------------------|---|
| Air impurity | Plant | Standard of concentration | |
| Smoke | Any flare | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4 or 5 | Ringelmann 1 or 20% opacity |
| | | Group 6 | No visible emission other than for a total period of no more than 5 minutes in any 2 hours. |

| Vapour recovery units and other non-thermal treatment plant | | | |
|--|--|----------------------------------|---------------------------|
| Air impurity | Plant | Standard of concentration | |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any vapour recovery unit treating air impurities that originate from material containing any principal toxic air pollutant | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 20 mg/m ³ VOCs |
| | Any vapour recovery unit treating air impurities that originate from material not containing any principal toxic air pollutant | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs |

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Schedule 3 Standards of concentration for scheduled premises: activities and plant used for specific purposes

(Clause 27)

| Agricultural fertiliser or ammonium nitrate production | | | |
|---|---|--|-----------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Sulfur dioxide (SO ₂) | Acid production | Group 1 | 5,600 mg/m ³ |
| | | Group 2, 3, 4 or 5 | 2,800 mg/m ³ |
| | | Group 6 | 1,000 mg/m ³ |
| Sulfuric acid mist (H ₂ SO ₄) or sulfur trioxide (SO ₃) or both, as SO ₃ equivalent | Acid production | Group 1 | 200 mg/m ³ |
| | | Group 2, 3, 4, 5 or 6 | 100 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Acid production | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 350 mg/m ³ |
| Smoke | Acid production | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

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| Aluminium: primary production | | | |
|--|---|----------------------------------|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (total) | Any activity or plant (except as listed below) | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Pre-baked anode production | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 300 mg/m ³ |
| Fluorine (F ₂) and any compound containing fluorine, as total fluoride (HF) equivalent | Production of aluminium from alumina | Group 1 | 40 mg/m ³ |
| | | Group 2 | 20 mg/m ³ |
| | | Group 3 or 4 | 1.0 kg/t Al |
| | | Group 5 | 0.8 kg/t Al |
| | | Group 6 | 0.6 kg/t Al |
| Dioxins or furans | Pre-baked anode production | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Pre-baked anode production | Group 1 | — |
| | | Groups 2, 3 and 4 | — |
| | | Group 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |

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| Aluminium: primary production | | | |
|--------------------------------------|----------------------------|--|-----------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Smoke | Pre-baked anode production | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

| Aluminium: secondary production | | | |
|---|---|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (total) | Any activity or plant, including any smelting, refining or holding furnace (except as listed below) | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any activity or plant, including any smelting, refining or holding furnace | Group 1 | 2,500 mg/m ³ |
| | | Group 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 300 mg/m ³ |
| Fluorine (F ₂) or any compound containing fluorine, as total fluoride (HF) equivalent | Any smelting or refining furnace | Group 1 | 100 mg/m ³ |
| | | Group 2, 3, 4, 5 or 6 | 50 mg/m ³ |

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| Aluminium: secondary production | | | |
|--|----------------------------------|--|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Type 1 substances (in aggregate) | Any smelting or refining furnace | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any smelting or refining furnace | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |
| Cadmium (Cd) or mercury (Hg) individually | Any smelting or refining furnace | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any smelting or refining furnace | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any smelting or refining furnace | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Smoke | Any activity or plant | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Cement or lime production or cement or lime handling | | | |
|--|--|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any kiln | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Groups 2, 3, and 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any kiln other than a lime kiln | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 500 mg/m ³ |
| | Any lime kiln | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 400 mg/m ³ |
| Fluorine (F ₂), or any compound containing fluorine, as total fluoride (HF) equivalent | Any kiln fired on a liquid or solid standard fuel or a non-standard fuel | Group 1 | 100 mg/m ³ |
| | | Group 2, 3, 4, 5 or 6 | 50 mg/m ³ |
| Type 1 substances (in aggregate) | Any kiln fired on a non-standard fuel | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any kiln fired on a non-standard fuel | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Cement or lime production or cement or lime handling | | | |
|---|---|--|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Cadmium (Cd) or mercury (Hg) individually | Any kiln fired on a non-standard fuel | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any kiln fired on a non-standard fuel that contains precursors of dioxin or furan formation | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any kiln fired on a non-standard fuel | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Smoke | Any kiln | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Ceramic works | | | |
|--|---|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any kiln or dryer | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any kiln or dryer | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 500 mg/m ³ |
| Fluorine (F ₂), or any compound containing fluorine, as total fluoride (HF) equivalent | Any kiln or dryer | Group 1 | 100 mg/m ³ |
| | | Group 2, 3, 4, 5 or 6 | 50 mg/m ³ |
| Hydrogen chloride (HCl) | Any activity, other than the manufacture of glazed terracotta roofing tiles | Group 1, 2, 3 or 4 | 400 mg/m ³ |
| | | Group 5 or 6 | 100 mg/m ³ |
| | Manufacture of glazed terracotta roofing tiles | Group 1, 2, 3 or 4 | — |
| | | Group 5 or 6 | 100 mg/m ³ |
| Type 1 substances (in aggregate) | Any kiln or dryer fired on a non-standard fuel | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any kiln or dryer fired on a non-standard fuel | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Ceramic works | | | |
|--|--|--|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Cadmium (Cd) or mercury (Hg) individually | Any kiln or dryer fired on a non-standard fuel | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any kiln or dryer fired on a non-standard fuel that contains precursors of dioxin or furan formation | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any kiln or dryer fired on a non-standard fuel | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Smoke | Any kiln (other than those used for firing dark red or dark brown face bricks formed by dry press brick machines) Any dryer | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |
| | Any kiln used for firing dark red or dark brown face bricks formed by dry press brick machines | Group 1 | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Electricity generation | | | | |
|---|---|--|-------------------------|-----------------------|
| Air impurity | Activity or plant | Standard of concentration | | |
| Solid particles (Total) | Any activity or plant using a liquid or solid standard fuel or a non-standard fuel | Group 1 | 400 mg/m ³ | |
| | | Group 2, 3 or 4 | 250 mg/m ³ | |
| | | Group 5 | 100 mg/m ³ | |
| | | Group 6 | 50 mg/m ³ | |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ | |
| | | Group 2, 3 or 4 | 250 mg/m ³ | |
| | | Group 5 | 100 mg/m ³ | |
| | | Group 6 | 20 mg/m ³ | |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any boiler operating on a fuel other than gas, including a boiler used in connection with an electricity generator that forms part of an electricity generating system with a capacity of 30 MW or more | Group 1, 2, 3 or 4 | 2,500 mg/m ³ | |
| | | Group 5 | 800 mg/m ³ | |
| | | Group 6 | 500 mg/m ³ | |
| | Any turbine operating on gas, being a turbine used in connection with an electricity generating system with a capacity of 30 MW or more | Group 1, 2, 3 or 4 | 2,500 mg/m ³ | |
| | | Group 5 or 6 | 70 mg/m ³ | |
| | Any turbine operating on a fuel other than gas, being a turbine used in connection with an electricity generating system with a capacity of 30 MW or more | Group 1, 2, 3 or 4 | 2,500 mg/m ³ | |
| | | Group 5 | 150 mg/m ³ | |
| | | Group 6 | 90 mg/m ³ | |
| | Fluorine (F ₂) and any compound containing fluorine, as total fluoride (HF) equivalent | Any activity or plant using a liquid or solid standard fuel or a non-standard fuel | Group 1 | 100 mg/m ³ |
| | | | Group 2, 3, 4, 5 or 6 | 50 mg/m ³ |
| Type 1 substances (in aggregate) | Any activity or plant using a non-standard fuel | Group 1, 2 or 3 | 20 mg/m ³ | |
| | | Group 4 | 10 mg/m ³ | |
| | | Group 5 or 6 | — | |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Electricity generation | | | |
|--|---|--|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Type 1 substances and Type 2 substances (in aggregate) | Any activity or plant using a non-standard fuel | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |
| Cadmium (Cd) or mercury (Hg) individually | Any activity or plant using a non-standard fuel | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any activity or plant using a non-standard fuel that contains precursors of dioxin or furan formation | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any activity or plant using a non-standard fuel | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Smoke | Any activity or plant using a liquid or solid standard fuel or a non-standard fuel | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Glass production | | | |
|---|---|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any melting furnace | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any melting furnace except manufacture of glass using sodium nitrate (NaNO ₃) | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 700 mg/m ³ |
| | Any melting furnace for manufacture of glass using sodium nitrate (NaNO ₃). | Group 1, 2, 3, 4 or 5 | 4,000 mg/m ³ |
| | | Group 6 | 1,500 mg/m ³ |
| | | | |
| Type 1 substances (in aggregate) | Any melting furnace | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any melting furnace | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |
| Cadmium (Cd) or mercury (Hg) individually | Any melting furnace | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Glass production | | | |
|-------------------------|--------------------------|--|-----------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Smoke | Any melting furnace | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

| Iron and steel: primary production | | | |
|---|---|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any fuel burning equipment Any sinter plant Any kiln Any power-generating plant Any furnace | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any fuel burning equipment Any sinter plant Any kiln Any power-generating plant Any furnace | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 500 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Iron and steel: primary production | | | |
|---|---|----------------------------------|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Hydrogen sulfide (H ₂ S) (see also clause 31) | Any fuel burning equipment | Group 1, 2, 3, 4, 5 or 6 | 5 mg/m ³ |
| | Any sinter plant | | |
| | Any kiln | | |
| | Any power-generating plant | | |
| | Any furnace | | |
| | Any reduction control system not followed by combustion | | |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any activity or plant using a non-standard fuel | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Type 1 substances (in aggregate) | Any activity or plant | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any activity or plant | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |
| Cadmium (Cd) or mercury (Hg) individually | Any activity or plant | Group 1 | — |
| | | Groups 2, 3 and 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any sinter plant | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Iron and steel: primary production | | | |
|---|---|--|-----------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Smoke | Any fuel burning equipment Any sinter plant Any kiln Any power-generating plant Any furnace | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

| Iron and steel: secondary production | | | |
|---|---|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any fuel burning equipment | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity Any electric arc furnace | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any activity or plant except any electric arc furnace | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 350 mg/m ³ |
| Type 1 substances (in aggregate) | Any steelmaking furnace | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 2 substances (in aggregate) | Any steelmaking furnace | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Iron and steel: secondary production | | | |
|--|--------------------------|--|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Cadmium (Cd) or mercury (Hg) individually | Any steelmaking furnace | Group 1 | — |
| | | Group 2, 3 or 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any steelmaking furnace | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any steelmaking furnace | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Smoke | Any steelmaking furnace | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Non-ferrous metals (excluding aluminium): primary production | | | |
|---|---|----------------------------------|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any sinter plant | Group 1 | 400 mg/m ³ |
| | Any smelting or refining process | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | Any alloying or casting process | Group 6 | 50 mg/m ³ |
| | Any fuel burning equipment | | |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| Group 6 | | 20 mg/m ³ | |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any smelting or refining process | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | Any alloying or casting process | Group 6 | 350 mg/m ³ |
| | | | |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any activity or plant using a non-standard fuel | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Type 1 substances (in aggregate) | Any smelting or refining process | Group 1, 2 or 3 | 20 mg/m ³ |
| | Any alloying or casting process | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any smelting or refining process | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | Any alloying or casting process | Group 6 | 1 mg/m ³ |
| Any sinter plant | | | |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Non-ferrous metals (excluding aluminium): primary production | | | |
|---|--|--|-----------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Cadmium (Cd) or mercury (Hg) individually | Any smelting or refining process | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | Any alloying or casting process | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any sinter plant | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Smoke | Any sinter plant | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | Any smelting or refining process | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |
| Any alloying or casting process | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity | |
| | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity | |
| Any fuel burning equipment | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity | |
| | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity | |

| Non-ferrous metals (excluding aluminium): secondary production | | | |
|---|---|----------------------------------|-----------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any activity or plant (except as listed below) | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Non-ferrous metals (excluding aluminium): secondary production | | | |
|---|----------------------------------|--|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any activity or plant | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 300 mg/m ³ |
| Type 1 substances (in aggregate) | Any smelting or refining process | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any smelting or refining process | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |
| Cadmium (Cd) or mercury (Hg) individually | Any smelting or refining process | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any smelting or refining process | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any smelting or refining process | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| Smoke | Any activity or plant | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Paper, paper pulp or pulp products industries | | | |
|---|--|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any boiler used in connection with power generation Any kraft recovery boiler Any lime kiln | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any boiler used in connection with power generation Any kraft recovery boiler | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 300 mg/m ³ |
| | Any lime kiln | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 400 mg/m ³ |
| Hydrogen sulfide (H ₂ S) (see also clause 31) | Any kraft recovery boiler Any lime kiln Any digester system, if not followed by combustion Any brown stock washer system, if not followed by combustion Any condensate stripper, if not followed by combustion | Group 1, 2, 3, 4, 5 or 6 | 5 mg/m ³ |
| Total reduced sulfides (TRS), as H ₂ S equivalent | Any kraft recovery boiler Any lime kiln | Group 1, 2, 3, 4 or 5 | — |
| | Any digester system, if not followed by combustion Any brown stock washer system, if not followed by combustion Any condensate stripper, if not followed by combustion | Group 6 | 4 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Paper, paper pulp or pulp products industries | | | |
|--|--|----------------------------------|--|
| Air impurity | Activity or plant | Standard of concentration | |
| Type 1 substances (in aggregate) | Any boiler used in connection with power generation using a non-standard fuel | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | Any lime kiln using a non-standard fuel | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any boiler used in connection with power generation using a non-standard fuel | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | Any lime kiln using a non-standard fuel | Group 6 | 1 mg/m ³ |
| Cadmium (Cd) or mercury (Hg) individually | Any boiler used in connection with power generation using a non-standard fuel | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | Any lime kiln using a non-standard fuel | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any kraft recovery boiler | Group 1, 2, 3, 4 or 5 | — |
| | Any boiler used in connection with power generation using a non-standard fuel that contains precursors of dioxin or furan formation Any lime kiln using a non-standard fuel that contains precursors of dioxin or furan formation | Group 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any boiler used in connection with power generation using a non-standard fuel Any lime kiln using a non-standard fuel | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs and 125 mg/m ³ CO |
| Methanol | Any kraft recovery boiler | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.012 kg/t of black liquor solids fired |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Paper, paper pulp or pulp products industries | | | |
|--|---|--|-----------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Smoke | Any lime kiln Any kraft recovery boiler Any boiler used in connection with power generation | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

| Petrochemical production | | | |
|---|--|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (total) | Any activity or plant (except as listed below) | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any fuel burning equipment | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 350 mg/m ³ |
| Hydrogen sulfide (H ₂ S) (see also clause 31) | Any reduction control system not followed by combustion Any sulfur recovery plant | Group 1, 2, 3, 4, 5 or 6 | 5 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Petrochemical production | | | |
|--|---|--|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any thermal oxidation process Any catalytic oxidation process Any vapour incineration | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| | Any vapour recovery unit Any distillation process | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ |
| Smoke | Any activity or plant using a liquid or solid standard fuel or a non-standard fuel | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

| Petroleum refining | | | |
|---|--|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (total) | Any fuel burning equipment Any fluidised bed catalytic cracking unit regenerator | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | Any fuel burning equipment Any fluidised bed catalytic cracking unit regenerator | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 350 mg/m ³ |
| Hydrogen sulfide (H ₂ S) (see also clause 31) | Any reduction control system not followed by combustion Any sulfur recovery plant | Group 1, 2, 3, 4, 5 or 6 | 5 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Petroleum refining | | | |
|--|---|--|---|
| Air impurity | Activity or plant | Standard of concentration | |
| Volatile organic compounds (VOCs), as n-propane equivalent | Any thermal oxidation process Any catalytic oxidation process Any vapour incineration | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| | Any vapour recovery unit Any distillation process | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs |
| Smoke | Any fuel burning equipment using a liquid or solid standard fuel or a non-standard fuel Fluidised bed catalytic cracking unit regenerator Any boiler used in connection with power generation | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

**Schedule 4 Standards of concentration for
scheduled premises: general
activities and plant**

(Clause 27)

| General standards of concentration | | | |
|---|---|----------------------------------|-----------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Solid particles (Total) | Any activity or plant (except as listed below) | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any plant used for heating metals | Group 1 | 250 mg/m ³ |
| | | Group 2, 3 or 4 | 200 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 50 mg/m ³ |
| | Any crushing, grinding, separating or materials handling activity | Group 1 | 400 mg/m ³ |
| | | Group 2, 3 or 4 | 250 mg/m ³ |
| | | Group 5 | 100 mg/m ³ |
| | | Group 6 | 20 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| General standards of concentration | | | |
|---|---|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Nitrogen dioxide (NO ₂) or Nitric oxide (NO) or both, as NO ₂ equivalent | Any activity or plant (except boilers, gas turbines and stationary reciprocating internal combustion engines listed below) | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 2,000 mg/m ³ |
| | | Group 6 | 350 mg/m ³ |
| | Any boiler operating on gas | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 or 6 | 350 mg/m ³ |
| | Any boiler operating on a fuel other than gas, including a boiler used in connection with an electricity generator that forms part of an electricity generating system with a capacity of less than 30 MW | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 or 6 | 500 mg/m ³ |
| | Any turbine operating on gas, being a turbine used in connection with an electricity generating system with a capacity of less than 10 MW | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 | 90 mg/m ³ |
| | | Group 6 | 70 mg/m ³ |
| | Any turbine operating on gas, being a turbine used in connection with an electricity generating system with a capacity of 10 MW or greater but less than 30 MW | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 or 6 | 70 mg/m ³ |
| | Any turbine operating on a fuel other than gas, being a turbine used in connection with an electricity generating system with a capacity of less than 10 MW | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| | | Group 5 or 6 | 90 mg/m ³ |
| | Any turbine operating on a fuel other than gas, being a turbine used in connection with an electricity generating system with a capacity of 10 MW or greater but less than 30 MW | Group 1, 2, 3 or 4 | 2,500 mg/m ³ |
| Group 5 | | 150 mg/m ³ | |
| Group 6 | | 90 mg/m ³ | |
| Stationary reciprocating internal combustion engines | Group 1, 2, 3, 4 or 5 | — | |
| | Group 6 | 450 mg/m ³ | |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| General standards of concentration | | | |
|---|---|----------------------------------|-------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Sulfur dioxide (SO ₂) | Sulfuric acid manufacture using elemental sulfur | Group 1 | 5,600 mg/m ³ |
| | | Group 2, 3, 4 or 5 | 2,800 mg/m ³ |
| | | Group 6 | 1,000 mg/m ³ |
| | Sulfuric acid manufacture using other than elemental sulfur | Group 1, 2, 3, 4 or 5 | 7,200 mg/m ³ |
| | | Group 6 | 1,000 mg/m ³ |
| Sulfuric acid mist (H ₂ SO ₄) or sulfur trioxide (SO ₃) or both, as SO ₃ equivalent | Any activity or plant | Group 1 | 200 mg/m ³ |
| | | Group 2, 3, 4, 5 or 6 | 100 mg/m ³ |
| Hydrogen sulfide (H ₂ S) (see also clause 31) | Any activity or plant | Group 1, 2, 3, 4, 5 or 6 | 5 mg/m ³ |
| Fluorine (F ₂) and any compound containing fluorine, as total fluoride (HF) equivalent | Any activity or plant, other than the manufacture of aluminium from alumina | Group 1 | 100 mg/m ³ |
| | | Group 2, 3, 4, 5 or 6 | 50 mg/m ³ |
| Chlorine (Cl ₂) | Any activity or plant | Group 1, 2, 3, 4, 5 or 6 | 200 mg/m ³ |
| Hydrogen chloride (HCl) | Any activity, other than the manufacture of glazed terracotta roofing tiles | Group 1, 2, 3 or 4 | 400 mg/m ³ |
| | | Group 5 or 6 | 100 mg/m ³ |
| | Manufacture of glazed terracotta roofing tiles | Group 1, 2, 3 or 4 | — |
| | | Group 5 or 6 | 100 mg/m ³ |
| Type 1 substances (in aggregate) | Any activity or plant | Group 1, 2 or 3 | 20 mg/m ³ |
| | | Group 4 | 10 mg/m ³ |
| | | Group 5 or 6 | — |
| Type 1 substances and Type 2 substances (in aggregate) | Any activity or plant | Group 1, 2, 3 or 4 | — |
| | | Group 5 | 5 mg/m ³ |
| | | Group 6 | 1 mg/m ³ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| General standards of concentration | | | |
|---|---|----------------------------------|--|
| Air impurity | Activity or plant | Standard of concentration | |
| Cadmium (Cd) or mercury (Hg) individually | Any activity or plant | Group 1, 2 or 3 | — |
| | | Group 4 | 3 mg/m ³ |
| | | Group 5 | 1 mg/m ³ |
| | | Group 6 | 0.2 mg/m ³ |
| Dioxins or furans | Any activity or plant using a non-standard fuel that contains precursors of dioxin or furan formation | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 0.1 ng/m |
| | Incinerator that processes waste | Group 1, 2, 3 or 4 | — |
| | | Group 5 or 6 | 0.1 ng/m ³ |
| Volatile organic compounds (VOCs), as n-propane | Any activity or plant involving combustion (except as listed below) | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| | Any stationary reciprocating internal combustion engine using a gaseous fuel | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 40 mg/m ³ VOCs or 125 mg/m ³ CO |
| | Any stationary reciprocating internal combustion engine using a liquid fuel | Group 1, 2, 3, 4 or 5 | — |
| | | Group 6 | 1140 mg/m ³ VOCs or 5880 mg/m ³ CO |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| General standards of concentration | | | |
|---|---|--|-----------------------------|
| Air impurity | Activity or plant | Standard of concentration | |
| Smoke | Any activity or plant in connection with which solid fuel is burnt | Group 1, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 1, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group 2, 3, 4, 5 or 6, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group 2, 3, 4, 5 or 6, in other circumstances | Ringelmann 1 or 20% opacity |
| | An activity or plant in connection with which liquid or gaseous fuel is burnt | Group 1, 2, 3, 4, 5 or 6 | Ringelmann 1 or 20% opacity |

Schedule 5 Test methods, averaging periods and reference conditions for scheduled premises

(Clause 28)

Part 1 Test methods

| Test methods and monitoring methods | | |
|---|--------------------|--------------------------|
| Air impurity | Test method | Monitoring method |
| Solid particles (Total) | TM-15 | Not applicable |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent | TM-11 | CEM-2 |
| Sulfur dioxide (SO ₂) | TM-4 | CEM-2 |
| Hydrogen sulfide (H ₂ S) | TM-5 | CEM-7 |
| Total reduced sulfides (TRS) | TM-33 | CEM-5 |
| Sulfuric acid mist (H ₂ SO ₄) or sulfur trioxide (SO ₃) or both, as SO ₃ equivalent | TM-3 | Not applicable |
| Chlorine (Cl ₂) | TM-7 | Not applicable |
| Hydrogen chloride (HCl) | TM-8 | Not applicable |

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Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

| Test methods and monitoring methods | | |
|---|------------------------|--------------------------|
| Air impurity | Test method | Monitoring method |
| Fluorine (F ₂) or any compound containing fluorine, as total fluoride (HF) equivalent, except where emitted by a primary aluminium smelter while manufacturing aluminium from alumina | TM-9 | Not applicable |
| Hydrogen fluoride (HF) emitted by a primary aluminium smelter while manufacturing aluminium from alumina | TM-10 | Not applicable |
| Type 1 substances and Type 2 substances | TM-12, TM-13 and TM-14 | Not applicable |
| Cadmium (Cd) or mercury | TM-12, TM-13 and TM-14 | Not applicable |
| Dioxins or furans | TM-18 | Not applicable |
| Carbon monoxide (CO) | TM-32 | CEM-4 |
| Volatile organic compounds, as n-propane equivalent | TM-34 | CEM-8, CEM-9, CEM-10 |
| Methanol | TM-35 | CEM-8, CEM-9, CEM-10 |
| Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | Not applicable | CEM-1 |
| Smoke (if determining whether a specified Ringelmann standard has been exceeded) | TM-16 | Not applicable |
| Smoke (if determining whether standard for emission of smoke from flares has been exceeded) | TM-37 | Not applicable |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

Part 2 Averaging periods

| Averaging periods | |
|--|--|
| Air impurity | Averaging period |
| Sulfuric acid mist (H ₂ SO ₄) or sulfur trioxide (SO ₃) or both, as SO ₃ equivalent Fluorine (F ₂), or any compound containing fluorine, as total fluoride (HF) equivalent (except where emitted by a primary aluminium smelter while manufacturing aluminium from alumina) Hydrogen Chloride (HCl) Cadmium (Cd) Dioxins or furans Mercury (Hg) Type 1 or Type 2 substances Solid particles (total) | 1 hour, or the minimum sampling period specified in the relevant test method referred to in Part 1, whichever is the greater |
| Nitrogen dioxide (NO ₂) or nitric oxide (NO) or both, as NO ₂ equivalent Sulfur dioxide (SO ₂) Hydrogen sulfide (H ₂ S) Total reduced sulfides (TRS) Chlorine (Cl ₂) | 1 hour block |
| Volatile organic compounds (VOCs), as n-propane equivalent Carbon monoxide (CO) | 1 hour rolling |
| Hydrogen fluoride (HF) emitted by a primary aluminium smelter while manufacturing aluminium from alumina Methanol | 24 hours |
| Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | 6 minutes rolling |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

Part 3 Reference conditions

| Reference conditions relating to Group 1, 2, 3 or 4 | | |
|---|--------------------------|---|
| Air impurity | Activity or plant | Reference conditions |
| All air impurities (except as listed below) | Any activity or plant | Dry, 273 K, 101.3 kPa |
| Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | Any activity or plant | Gas stream temperature above dew point. Path length corrected to stack exit diameter as per CEM-1 |
| Solid particles (total) | Boilers or incinerators | Dry, 273 K, 101.3 kPa, 12% CO ₂ |

| Reference conditions relating to Group 5 or 6 | | |
|---|---|---|
| Air impurity | Activity or plant | Reference conditions |
| All air impurities (except as listed below) | Any activity or plant (except as listed below) | Dry, 273 K, 101.3 kPa |
| | Any fuel burning equipment using solid fuel | Dry, 273 K, 101.3 kPa, 7% O ₂ |
| | Any fuel burning equipment using gas or liquid fuel | Dry, 273 K, 101.3 kPa, 3% O ₂ |
| | Gas turbines | Dry, 273 K, 101.3 kPa, 15% O ₂ |
| Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | Any activity or plant | Gas stream temperature above dew point. Path length corrected to stack exit diameter as per CEM-1 |
| Dioxins or furans | Incinerators that process waste | Dry, 273 K, 101.3kPa, 11% O ₂ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

Schedule 6 Standards of concentration for non-scheduled premises

(Clause 33)

| Air impurity | Activity or plant | Group | Concentration |
|-----------------|--|--|---------------------------------|
| Solid particles | Any activity or plant (except as listed below) | Group A | 400 mg/m ³ |
| | | Group B | 250 mg/m ³ |
| | | Group C | 100 mg/m ³ |
| | Any activity or plant in which, or in connection with which, solid fuel is burnt | Group A | Ringelmann 2 or 40% opacity |
| | | Group B | Ringelmann 1 or 20% opacity |
| | | Group C | Ringelmann 1 or 20% opacity |
| | Any activity or plant in which, or in connection with which, liquid or gaseous fuel is burnt | Group A | Ringelmann 1 or 20% opacity |
| | | Group B | Ringelmann 1 or 20% opacity |
| | | Group C | Ringelmann 1 or 20% opacity |
| Smoke | Any activity or plant in connection with which solid fuel is burnt | Group A, in relation to marine vessels or premises, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group A, in relation to marine vessels or premises, in other circumstances | Ringelmann 2 or 40% opacity |
| | | Group B or C, in relation to marine vessels or premises, in approved circumstances | Ringelmann 3 or 60% opacity, or |
| | | Group B or C, in relation to marine vessels or premises, in other circumstances | Ringelmann 1 or 20% opacity |
| | Any activity or plant in connection with which liquid or gaseous fuel is burnt | Group A, B or C in relation to marine vessels or premises, in approved circumstances | Ringelmann 3 or 60% opacity |
| | | Group A, B or C, in relation to marine vessels or premises, in other circumstances | Ringelmann 1 or 20% opacity |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Schedule 1 Amendments

Schedule 7 Test methods, averaging periods and reference conditions for non-scheduled premises

(Clause 34)

Part 1 Test methods

| Test methods and monitoring methods | | |
|---|----------------|-------------------|
| Air impurity | Test method | Monitoring method |
| Solid particles (Total) | TM-15 | Not applicable |
| Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | Not applicable | CEM-1 |
| Smoke (if determining whether a specified Ringelmann standard has been exceeded) | TM-16 | Not applicable |

Part 2 Averaging periods

| Averaging periods | |
|---|--|
| Air impurity | Averaging period |
| Solid particles (total) | 1 hour, or the minimum sampling period specified in the relevant test method referred to in Part 1, whichever is the greater |
| Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | 6 minutes rolling |

Part 3 Reference conditions

| Reference conditions relating to Group A | | |
|--|--|--|
| Air impurity | Activity or plant | Reference conditions |
| Solid particles (total) | Any activity or plant (except as listed below) | Dry, 273 K, 101.3 kPa |
| | Boilers or incinerators | Dry, 273 K, 101.3 kPa, 12% CO ₂ |

Protection of the Environment Operations (Clean Air) Amendment
(Industrial and Commercial Activities and Plant) Regulation 2005

Amendments

Schedule 1

| Reference conditions relating to Group A | | |
|---|--------------------------|---|
| Air impurity | Activity or plant | Reference conditions |
| Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | Any activity or plant | Gas stream temperature above dew point. Path length corrected to stack exit diameter as per CEM-1 |

| Reference conditions relating to Group B or C | | |
|---|---|---|
| Air impurity | Activity or plant | Reference conditions |
| Solid particles (total) | Any activity or plant (except as listed below) | Dry, 273 K, 101.3 kPa |
| | Fuel burning equipment using solid fuel | Dry, 273 K, 101.3 kPa, 7% CO ₂ |
| | Fuel burning equipment using liquid or gaseous fuel | Dry, 273 K, 101.3 kPa, 3% CO ₂ |
| Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | Any activity or plant | Gas stream temperature above dew point. Path length corrected to stack exit diameter as per CEM-1 |



New South Wales

Pre-Trial Diversion of Offenders Regulation 2005

under the

Pre-Trial Diversion of Offenders Act 1985

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Pre-Trial Diversion of Offenders Act 1985*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to remake, without any changes in substance, the provisions of the *Pre-Trial Diversion of Offenders Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) the maximum periods for which proceedings to which the *Pre-Trial Diversion of Offenders Act 1985* (**the Act**) applies may be adjourned for the purposes of the Act (clause 4),
- (b) the guidelines to be observed by a prosecutor in deciding whether a person should be referred for assessment as to the person's suitability for participation in the Pre-Trial Diversion of Offenders Program (clause 5),
- (c) matters relating to the carrying out of such an assessment (clause 6),
- (d) formal matters (clauses 1–3 and 7).

This Regulation is made under the Act, including sections 9 (Proceedings to be adjourned pending decision by prosecutor), 10 (Matters to be considered by prosecutor in deciding whether to refer person for assessment), 13 (Proceedings to be further adjourned pending assessment), 14 (Assessment), 17 (Act ceases to apply if person does not plead guilty before Magistrate) and 34 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature.

Pre-Trial Diversion of Offenders Regulation 2005

Contents

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Pre-Trial Diversion of Offenders Regulation 2005

Clause 1

Pre-Trial Diversion of Offenders Regulation 2005

under the

Pre-Trial Diversion of Offenders Act 1985

1 Name of Regulation

This Regulation is the *Pre-Trial Diversion of Offenders Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Pre-Trial Diversion of Offenders Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
the Act means the *Pre-Trial Diversion of Offenders Act 1985*.
- (2) Notes included in this Regulation do not form part of this Regulation.

4 Maximum adjournment periods: sections 9, 13 and 17

- (1) For the purposes of section 9 of the Act, 4 weeks is prescribed as the maximum period for which proceedings may be adjourned to allow a determination to be made as to whether a person is to be referred for assessment for suitability for participation in the Program.
- (2) For the purposes of section 13 of the Act, 8 weeks is prescribed as the maximum period for which proceedings may be adjourned to allow such an assessment to be made.
- (3) For the purposes of section 17 of the Act, 2 weeks is prescribed as the maximum period for which proceedings may be adjourned to allow the person charged to be given advice and information.

Clause 5 Pre-Trial Diversion of Offenders Regulation 2005

5 Prosecutor's guidelines: section 10

For the purposes of section 10 of the Act, the following guidelines are prescribed for consideration by the prosecutor in determining whether a person is to be referred for assessment:

Guidelines

- 1 A prosecutor should not refer a person for assessment:
 - (a) if the child sexual assault offence with which the person is charged is alleged to have been accompanied by acts of violence towards the alleged victim or others, or
 - (b) if the person is under 18 years of age, or
 - (c) if the person has a prior conviction for a sexual offence, whether in New South Wales or elsewhere, or
 - (d) if the alleged victim is 18 years of age or more when the person first appears before a court in relation to the offence, or
 - (e) if the person has previously been requested under section 23 of the Act to give an undertaking in relation to any offence.
- 2 A prosecutor may take into account any other matter that the prosecutor considers relevant to the question of whether or not the person should be referred for assessment.

6 Assessment procedure: section 14

- (1) Within one week after the prosecutor's decision to refer a person for an assessment of suitability for participation in the Program, the prosecutor must notify the Director in writing of that decision.
- (2) Within one week after the assessment is carried out, the Director must notify the prosecutor of the results of the assessment and (if appropriate) the reasons why the person concerned is not suitable for participation in the Program.
- (3) The assessment must be carried out by means of structured clinical interviews of:
 - (a) the person referred for assessment, and
 - (b) such other persons acquainted with the person referred for assessment as the Director may determine.

Pre-Trial Diversion of Offenders Regulation 2005

Clause 7

7 Saving

Any act, matter or thing that, immediately before the repeal of the *Pre-Trial Diversion of Offenders Regulation 2000*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

Protection of the Environment Operations (Waste) Regulation 2005

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,
Minister for the Environment

Explanatory note

The object of this Regulation is to remake the *Protection of the Environment Operations (Waste) Regulation 1996*. That Regulation will be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation contains the following provisions:

- (a) provisions relating to the calculation of contributions payable by occupiers of waste facilities licensed under the *Protection of the Environment Operations Act 1997* and exemptions and rebates in respect of such contributions,
- (b) provisions placing obligations on producers, consignors, transporters and receivers of specified types of waste to obtain certain authorisations to transport the waste and receive the waste and to carry, complete or keep certain documentation in relation to the transportation of the waste,
- (c) provisions specifying requirements to be met by persons transporting, collecting, storing or disposing of any type of asbestos waste,
- (d) provisions specifying requirements to be met by persons disposing of clinical waste at a facility that is not licensed under the Act,
- (e) provisions prohibiting the application of certain residue waste to land used for growing vegetation unless the waste was lawfully sold as a soil improving agent or trace element product within the meaning of the *Fertilisers Act 1985* or the application of the waste was exempted from the provisions by the Environment Protection Authority (*the EPA*),

Protection of the Environment Operations (Waste) Regulation 2005

Explanatory note

- (f) provisions requiring the reporting of certain matters to the EPA by the occupiers of landfill sites that are not licensed under the Act,
- (g) provisions requiring persons to store waste in an environmentally safe manner and to take certain measures when transporting waste,
- (h) provisions permitting the EPA to grant approvals to enable waste to be assessed and classified in accordance with the procedures relating to the immobilisation of waste set out in the document called *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes* issued by the EPA,
- (i) other provisions of a savings or transitional nature.

The Regulation provides for most of its provisions to become effective from 1 March 2006 and for the provisions of the *Protection of the Environment Operations (Waste) Regulation 1996* to have effect until that date.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 286 and 323 (the general regulation-making power).

Protection of the Environment Operations (Waste) Regulation 2005

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Protection of the Environment Operations (Waste) Regulation 2005

under the

Protection of the Environment Operations Act 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Waste) Regulation 2005*.

2 Commencement

- (1) This Regulation commences on 1 September 2005, except as provided by subclause (2).
- (2) The provisions of Parts 2–5, Part 6 (except clause 54) and Schedules 1 and 2 [2] commence on 1 March 2006.

Note 1. This Regulation replaces the *Protection of the Environment Operations (Waste) Regulation 1996* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

Note 2. The provisions of the *Protection of the Environment Operations (Waste) Regulation 1996* are prescribed as a regulation until 1 March 2006 by clause 54 of this Regulation.

3 Definitions

- (1) In this Regulation:
approved means approved by the EPA from time to time.
the Act means the *Protection of the Environment Operations Act 1997*.
- (2) Expressions used in this Regulation that are defined in Part 3 (Interpretative provisions) of Schedule 1 to the Act have the same meanings as specified in that Part.
- (3) Notes included in this Regulation do not form part of this Regulation.

Protection of the Environment Operations (Waste) Regulation 2005

Clause 4

Contributions by occupiers of scheduled waste facilities and monitoring requirements

Part 2

Part 2 Contributions by occupiers of scheduled waste facilities and monitoring requirements

4 Definitions

In this Part:

CPI means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

ERA means extended regulated area.

motor car means:

- (a) a motor vehicle constructed primarily for the carriage of persons, or
- (b) a motor vehicle that is of the kind known as a utility, station wagon or panel van.

scheduled waste facility means a waste facility that is required to be licensed under the Act.

SMA means Sydney metropolitan area.

year means a year beginning on 1 July and ending on 30 June.

5 Contributions payable in relation to scheduled waste facilities where adequate records kept

- (1) For the purposes of section 88 (2) of the Act, the following contributions are prescribed as the contributions required to be paid by the occupiers of scheduled waste facilities:
 - (a) the SMA amount for the year in which the waste is received for each tonne of waste that is received in that year at a scheduled waste facility located in the Sydney metropolitan area,
 - (b) the ERA amount for the year in which the waste is received for each tonne of waste:
 - (i) that is received in that year at a scheduled waste facility located in the extended regulated area, and
 - (ii) that has been generated outside the Sydney metropolitan area,
 - (c) the SMA amount for the year in which the waste is received for each tonne of waste:
 - (i) that is received in that year at a scheduled waste facility located in the extended regulated area, and
 - (ii) that has been generated in the Sydney metropolitan area,
 - (d) the SMA amount for the year in which the waste is received for each tonne of waste:

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| Clause 5 | Protection of the Environment Operations (Waste) Regulation 2005 |
| Part 2 | Contributions by occupiers of scheduled waste facilities and monitoring requirements |

- (i) that is received in that year at a scheduled waste facility located outside the Sydney metropolitan area and the extended regulated area, and
- (ii) that has been generated in the Sydney metropolitan area,
- (e) the ERA amount for the year in which the waste is received for each tonne of waste:
 - (i) that is received in that year at a scheduled waste facility located outside the Sydney metropolitan area and the extended regulated area, and
 - (ii) that has been generated in the extended regulated area.
- (2) The SMA amount is as follows:
 - (a) for a year, beginning on or after 1 July 2003 and ending on or before 30 June 2010—the lower of:
 - (i) the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (4), or
 - (ii) the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (6),
 - (b) for a year, beginning on or after 1 July 2010—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (7).
- (3) The ERA amount is as follows:
 - (a) for a year, beginning on or after 1 July 2003 and ending on or before 30 June 2013—the lower of:
 - (i) the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (5), or
 - (ii) the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (6),
 - (b) for a year, beginning on or after 1 July 2013—the amount, in dollars and cents, calculated for the year in accordance with the formula in subclause (8).
- (4) The formula is:

$$G = (P + \$1.00) \times \left(1 + \left(\frac{A - B}{B} \right) \right)$$

where:

G is the amount, in dollars and cents, being calculated.

P is the SMA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

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| Protection of the Environment Operations (Waste) Regulation 2005 | Clause 5 |
| Contributions by occupiers of scheduled waste facilities and monitoring requirements | Part 2 |

A is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

B is the CPI number for the December quarter of the year 2 years previous to the year for which the calculation is being made.

- (5) The formula is:

$$H = (M + \$1.50) \times \left(1 + \left(\frac{A - B}{B}\right)\right)$$

where:

H is the amount, in dollars and cents, being calculated.

M is the ERA amount, in dollars and cents, for the year previous to the year for which the calculation is being made.

A is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

B is the CPI number for the December quarter of the year 2 years previous to the year for which the calculation is being made.

- (6) The formula is:

$$M = \$25.00 \times \left(1 + \left(\frac{C - D}{D}\right)\right)$$

where:

M is the amount, in dollars and cents, being calculated.

C is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

D is the CPI number for the December quarter of the year beginning 1 July 2001.

- (7) The formula is:

$$S = T \times \left(1 + \left(\frac{X - Y}{Y}\right)\right)$$

where:

S is the amount, in dollars and cents, being calculated.

T is the SMA amount, in dollars and cents, for the year beginning 1 July 2009.

X is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

Y is the CPI number for the December quarter of the year beginning 1 July 2008.

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| Clause 6 | Protection of the Environment Operations (Waste) Regulation 2005 |
| Part 2 | Contributions by occupiers of scheduled waste facilities and monitoring requirements |

- (8) The formula is:

$$E = F \times \left(1 + \left(\frac{X - Z}{Z} \right) \right)$$

where:

E is the amount, in dollars and cents, being calculated.

F is the ERA amount, in dollars and cents, for the year beginning 1 July 2012.

X is the CPI number for the December quarter of the year previous to the year for which the calculation is being made.

Z is the CPI number for the December quarter of the year beginning 1 July 2011.

- (9) The SMA amount and the ERA amount are to be rounded to the nearest 10 cents, and if the amount to be rounded is 5 cents, rounded up.
- (10) Despite the other provisions of this clause, the amount of contribution payable in respect of waste that is virgin excavated natural material is 90 per cent of the contribution that would be payable in respect of that waste except for this subclause.
- (11) If, at any time, the Australian Statistician issues a CPI number in substitution for a CPI number previously issued, the issue of the later CPI number is to be disregarded for the purposes of this clause.

6 Contributions payable in relation to scheduled waste facilities where inadequate records kept

- (1) Despite clause 5, the contributions payable for the purposes of section 88 (2) of the Act by the occupier of a scheduled waste facility are to be calculated by the EPA in accordance with this clause if there are no records, or inadequate records, of the tonnage of waste received by the waste facility in the relevant year.
- (2) The contribution payable is the SMA amount calculated:
- in accordance with clause 5 (2) for the year in which the EPA makes the determination of the amount of the contribution, and
 - in relation to each tonne of waste that is estimated by the EPA under subclause (3) as being at the waste facility concerned when the estimation is made.
- (3) The EPA is to estimate the tonnage of waste at the waste facility based on a volumetric survey carried out by a registered surveyor or, if the EPA considers it appropriate in the circumstances, taking into consideration all or any of the following:
- available records in respect of the waste facility concerned,

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| Contributions by occupiers of scheduled waste facilities and monitoring requirements | Part 2 |

- (b) any information provided by an authorised officer who has seen or inspected the waste facility,
 - (c) any other information of a reliable nature available to the EPA, such as video monitoring records and records kept by persons not involved in the operation of the waste facility.
- (4) If the EPA decides to base its estimate of the tonnage of waste received at the waste facility on a volumetric survey, it may (but need not) give the occupier of the waste facility a notice in writing:
- (a) requiring the occupier to ensure that such a survey is carried out by a registered surveyor within 21 days after the date of the notice, and
 - (b) requiring the occupier to ensure that a copy of the report of the registered surveyor is forwarded to the EPA within 7 days after the occupier receives it.
- (5) The occupier of a waste facility must not fail to comply with a requirement of a notice referred to in subclause (4).
Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
- (6) Any estimation of the tonnage of waste at a waste facility made for the purpose of this clause is to use the following formula in converting cubic metres of waste to tonnes of waste:

$$T = V \times 2$$

where:

T is the amount in tonnes of waste received.

V is the volume in cubic metres of the waste determined by the volumetric survey.

- (7) For the purposes of this clause, records are taken to be *inadequate records* if the EPA is of the opinion that they cannot be used to calculate the contribution payable under section 88 (2) of the Act because, for example, they are incomplete, inaccurate, inconsistent with other records (whether kept by the occupier of the waste facility concerned or another person or body) or the information contained in the records has not been obtained by using appropriate methods.

7 Payment of contributions by holder of supervisory licence

In the case of a scheduled waste facility that is the subject of a supervisory licence as referred to in section 87 of the Act, the occupier who is not the holder of the supervisory licence is required to pay the contributions under section 88 (2) of the Act in respect of the waste facility unless that occupier and the public authority concerned have

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made an arrangement for the contributions to be paid by the public authority and have informed the EPA in writing of any such arrangement.

8 Interest on unpaid contributions

If a contribution or part of a contribution under section 88 of the Act is not paid by the date as specified by the EPA, the amount payable is to be increased by an amount of compound interest calculated daily, for the period from that specified date until the day on which the contribution or part is paid, at the rate that is the sum of the following:

- (a) 8 per cent per annum,
- (b) the cash rate target released by the Reserve Bank of Australia that is applicable for the first business day of that period.

9 Exemption of certain occupiers from requirement to pay contributions

The occupier of any of the following types of scheduled waste facility is exempt from the requirement to pay a contribution to the EPA under section 88 of the Act:

- (a) premises used as a waste storage facility, transfer facility or waste treatment facility (not being an incinerator), or for a combination of any of those uses,
- (b) premises used to dispose of only coal washery rejects, slags or virgin excavated natural material (or any combination of those types of waste).

10 Certain types of waste exempted from calculation of contributions

- (1) The following types of waste received at a scheduled waste facility are exempted from the calculation of the contribution payable for each tonne of waste received at the waste facility:
 - (a) any liquid waste lawfully discharged at the waste facility into waters (in accordance with a licence under the Act) or into a sewer,
 - (b) any ash residue generated at a scheduled waste facility that is an incinerator,
 - (c) any spoil generated by dredging activities,
 - (d) any waste collected in accordance with a community service or activity, or arising from a biological outbreak or natural disaster, and that has been approved in writing for the purposes of this clause,

Protection of the Environment Operations (Waste) Regulation 2005

Clause 10

Contributions by occupiers of scheduled waste facilities and monitoring requirements

Part 2

- (e) any waste that, before it is received at the waste facility, has been segregated for the purposes of being reprocessed or recycled at the facility or for transporting to a reprocessing or recycling facility.
- (2) If the occupier of a scheduled waste facility claims an exemption in respect of any type of waste referred to in subclause (1), the occupier must record the following details:
- (a) the date on which the waste was received at the waste facility,
 - (b) the type and amount of waste received at the waste facility,
 - (c) particulars of the community service, activity, biological outbreak or natural disaster (if any) in respect of which the waste has been collected, including the date and number of the approval,
 - (d) if the waste remains at the waste facility:
 - (i) particulars of what has happened to the waste (for example, whether it has been used for a specific purpose at the waste facility or whether it has been disposed of, treated, or recycled or reprocessed at the waste facility), and
 - (ii) particulars of the type of any such reprocessing or recycling, and
 - (iii) the date on which the waste was so used, disposed of, treated or recycled or reprocessed, and
 - (iv) the amount and type of waste concerned,
 - (e) if the waste is transported to other premises:
 - (i) the name and address of the other premises, and
 - (ii) if the waste is transported to a reprocessing or recycling facility—the type of reprocessing or recycling waste facility concerned, and
 - (iii) the date of transportation, and
 - (iv) the amount and type of waste transported.
- Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
- (3) The occupier of a scheduled waste facility who claims an exemption in respect of any type of waste referred to in subclause (1) must:
- (a) ensure that the records required to be made under subclause (2) are accurate and are retained for a period of at least 3 years from the date on which the exemption is claimed, and

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| Clause 11 | Protection of the Environment Operations (Waste) Regulation 2005 |
| Part 2 | Contributions by occupiers of scheduled waste facilities and monitoring requirements |

- (b) make any such record available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (4) Despite subclause (1), waste is not exempted from the calculation of the contribution payable by the occupier of a scheduled waste facility if:
 - (a) the occupier fails to comply with any requirement under subclause (2) or (3) with respect to the waste, or
 - (b) in the case of waste referred to in clause 10 (1) (e), the occupier disposes of or uses the waste at the waste facility.

11 Contribution rebates

- (1) The occupier of a scheduled waste facility who is required to pay contributions under section 88 of the Act may claim a rebate in respect of any one or more of the following types of waste:
 - (a) any waste received at the waste facility if:
 - (i) the waste is reprocessed or recycled at that facility and the reprocessing or recycling is carried out to the extent or in the manner specified in the guidelines (if any) published or approved by the EPA from time to time for the purposes of this clause, or
 - (ii) the waste is transported to a reprocessing or recycling facility, or
 - (iii) the waste is transported to another place for reuse, or
 - (b) any waste received at the waste facility that is intended to be used for an approved operational purpose, so long as the amount of waste in respect of which the rebate is claimed in any period does not exceed the amount specified in the approval as allowed for that period, or
 - (c) any waste that has been transported to another scheduled waste facility for disposal if the appropriate contribution has been paid for the waste by the occupier of that other facility.
- (2) The occupier of a scheduled waste facility is not entitled to any rebate in respect of any waste that:
 - (a) has already been exempted, in accordance with clause 10, from the calculation of the contribution otherwise payable by the occupier, or
 - (b) was received at the waste facility more than 24 months before the date of the claim.

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- (3) A claim for a rebate:
- (a) must be in the approved form, and
 - (b) must be accompanied by such evidence as may be required by the EPA in relation to the claim, and
 - (c) in relation to any waste in respect of which a rebate is claimed because the waste is intended to be used for an approved operational purpose, must be accompanied by a proposed plan for the use of the waste for the approved operational purpose, and
 - (d) except in the case of a claim as referred to in subclause (6) (a), must be submitted to the EPA along with the full amount of the required contribution for the period concerned.
- (4) Without limiting subclause (3) (b), the EPA may require a claim referred to in subclause (1) (a) (iii) to be accompanied by evidence that the waste concerned was reused.
- (5) The EPA may determine a claim for a rebate:
- (a) by refusing the claim, or
 - (b) by allowing the claim:
 - (i) by refunding to the occupier such amount as the EPA determines, or
 - (ii) by allowing the occupier to deduct the amount determined by the EPA from the next contribution payable by the occupier, or
 - (iii) in accordance with subclause (6) (a).
- (6) The following provisions apply in the case of a claim for a rebate in respect of waste that is intended to be used for an approved operational purpose as referred to in subclause (1) (b):
- (a) the EPA may, once the EPA has approved the extent of the operational purpose, allow the occupier to automatically deduct a rebate (of an amount determined by the EPA), from the contribution otherwise payable by the occupier, in respect of any waste received at the waste facility that is to be used for that operational purpose,
 - (b) the occupier of the waste facility concerned:
 - (i) may deduct the amount of the rebate claimed in respect of waste within the period specified in the approval from the calculation of one contribution payable during that period, or
 - (ii) may apportion the deduction of the amount of the rebate claimed in respect of waste between the calculations of more than one contribution payable during that period.

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- (7) An occupier who is allowed a rebate for any waste must:
- (a) if the rebate is allowed in relation to waste referred to in subclause (1) (a) (i)—record the following details:
 - (i) the amount and type of waste received,
 - (ii) the date the waste was reprocessed or recycled,
 - (iii) the type of reprocessing or recycling used,
 - (iv) details of any stockpiles at the waste facility concerned,
 - (v) details of any substances added to the waste at the waste facility,
 - (vi) details of any residuals remaining after reprocessing or recycling, and
 - (b) if the rebate is allowed in relation to waste referred to in subclause (1) (a) (ii)—record the following details:
 - (i) the amount and type of waste received,
 - (ii) the date the waste was transported,
 - (iii) the name and address of the reprocessing or recycling facility,
 - (iv) the type of reprocessing or recycling facility, and
 - (c) if the rebate is allowed in relation to waste referred to in subclause (1) (a) (iii)—record the following details:
 - (i) the amount and type of waste transported for reuse,
 - (ii) the date the waste was transported,
 - (iii) the address of the place to which the waste was transported,
 - (iv) reasons why the waste was suitable for reuse, and
 - (d) if the rebate is allowed in relation to waste referred to in subclause (1) (b)—record the following details:
 - (i) the amount and type of waste received,
 - (ii) the date the waste was received,
 - (iii) particulars of the approved operational purpose for which the waste is intended to be used,
 - (iv) the amount and type of waste used,
 - (v) the date the waste was used,
 - (vi) particulars of the operational purpose for which the waste was used, and
 - (e) if the rebate is allowed in relation to waste referred to in subclause (1) (c)—record the following details:
 - (i) the amount and type of waste received,

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| Contributions by occupiers of scheduled waste facilities and monitoring requirements | Part 2 |

- (ii) the date the waste was transported,
 - (iii) the name and address of the scheduled waste facility to which it was transported,
 - (iv) the reason for transferring the waste to that other facility, and
 - (f) ensure that the records required to be made under paragraphs (a)–(e) are accurate and are retained for a period of at least 3 years from the date on which the rebate is claimed, and
 - (g) make any such record available for inspection by an authorised officer on request.
- Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
- (8) A rebate under this clause is to be calculated on the basis of the rate of contribution that was applicable at the time that the waste was received at the waste facility concerned.

12 Records relating to vehicles

- (1) The occupier of a scheduled waste facility who is required to pay contributions under section 88 of the Act must accurately record the following details in respect of each vehicle (other than a motor car or a car trailer) that transports waste to or from the waste facility:
- (a) the registration number of the vehicle,
 - (b) the time and date of entry to the waste facility,
 - (c) the time and date of exit from the waste facility,
 - (d) the type of waste carried by the vehicle,
 - (e) the quantity (in tonnes) of each type of waste carried by the vehicle,
 - (f) the final destination (whether at that waste facility or otherwise) of the waste.
- (2) The occupier of a scheduled waste facility who is required to pay contributions under section 88 of the Act must accurately record, on a daily basis, the following details in respect of the motor cars or car trailers that transport waste to the waste facility:
- (a) the total number of motor cars and car trailers that, on each particular day, transport waste to the waste facility,
 - (b) the type of waste transported by each such motor car or car trailer.

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- (3) A record required to be made under subclause (1) or (2) must:
- (a) be kept for at least 3 years from the date on which the waste concerned was received at, or transported from (as the case requires) the waste facility, and
 - (b) be made available for inspection by an authorised officer on request.

Maximum penalty (subclauses (1)–(3)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

13 Waste contribution monthly reports

The occupier of a scheduled waste facility who is required to pay contributions under section 88 of the Act must provide the EPA with the following information in the approved form of report within 60 days after the end of each month:

- (a) the quantity of waste received at the waste facility during the month to which the report relates,
- (b) the types of waste received at the waste facility during the month to which the report relates,
- (c) such other information in relation to the waste facility as may be specified by the EPA in the approved form of report.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

14 Volumetric surveys

- (1) Subject to subclause (3), the occupier of a scheduled landfill site who is required to pay contributions under section 88 of the Act must cause a volumetric survey of the landfill site to be carried out by a registered surveyor:
- (a) during June in each calendar year and provide the results to the EPA in the approved form and manner by no later than 31 July in that year, and
 - (b) during December in each year and provide the results to the EPA in the approved form and manner by no later than the following 31 January, and
 - (c) at any other time, or within any period, specified by the EPA by notice in writing given to the occupier.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (2) The occupier must:
- (a) keep a copy of the results of each survey, and

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- (b) make those results available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (3) The EPA may, by notice in writing given to the occupier of a landfill site:
 - (a) exempt the occupier from any requirement under subclause (1) until such time as the EPA decides to revoke the exemption by further written notice given to the occupier, or
 - (b) defer the application of any such requirement in respect of the occupier until such time as is specified in the notice.

15 Weighbridges

- (1) Subject to subclause (3), the occupier of a waste facility who is required to pay contributions under section 88 of the Act must:
 - (a) if the waste facility receives over 20,000 tonnes of waste per year, ensure that there is an approved weighbridge installed at the waste facility, and
 - (b) on and from 1 September 2006, if the waste facility receives over 10,000 tonnes of waste per year, ensure that there is an approved weighbridge installed at the waste facility.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
- (2) Subject to subclause (3), the occupier of a waste facility on which any such weighbridge is installed must:
 - (a) submit to the EPA, within 30 days after installing the weighbridge, a plan of the waste facility indicating the proposed vehicle flow controls (including the entry and exit points where waste is transported into and out of the waste facility), and
 - (b) if any change occurs in relation to those vehicle flow controls, submit a revised plan to the EPA no later than 30 days after the relevant change occurs, and
 - (c) ensure that each vehicle (not being a motor car or a car trailer) transporting waste into or out of the waste facility uses the weighbridge so that the quantity of waste being transported is correctly recorded, and
 - (d) ensure that any such weighbridge is maintained in proper working order, and
 - (e) ensure that any such weighbridge is certified at least once a year in accordance with the *Trade Measurement Act 1989*, and

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- (f) keep a copy of the latest vehicle flow control plan, and the latest weighbridge certificate as referred to in paragraph (e), on the premises and make the plan and the certificate available for inspection by an authorised officer on request, and
- (g) notify the EPA of any incident that results in the weighbridge being out of operation for any period of more than 7 days, and
- (h) ensure that an approved alternative method of recording the quantity of waste that is transported into or out of the waste facility is used during any period that the weighbridge is out of operation, and
- (i) comply with any other requirement relating to the installation or operation of the weighbridge as the EPA may specify by notice in writing.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (3) The EPA may, by notice in writing given to the occupier of a waste facility:
 - (a) exempt the occupier from any requirement under subclause (1) or (2) until such time as the EPA decides to revoke the exemption by further written notice given to the occupier, or
 - (b) defer the application of any such requirement in respect of the occupier until such time as is specified in the notice.

16 Video monitoring systems

- (1) The EPA may, by notice in writing, require the occupier of a waste facility who is required to pay contributions under section 88 of the Act to install an approved video monitoring system in the manner and location specified in the notice.
- (2) The EPA is not to make any such requirement unless it is of the opinion that the occupier has failed to pay the required contributions under the Act.
- (3) The occupier must:
 - (a) comply with any such requirement within the time specified in the notice, and
 - (b) ensure that video monitoring records are kept for at least one year from the time of the recording, and
 - (c) make such recordings available for inspection by an authorised officer on request.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

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Division 1 Preliminary

17 Definitions

In this Part:

authorised agent, in relation to the transportation of waste, means a person appointed as an authorised agent for the transportation of the waste in accordance with clause 27.

consignment authorisation means:

- (a) in relation to the transport of waste to a waste facility in New South Wales, a consignment authorisation issued under Division 6 authorising the transport of the waste to that facility, and
- (b) in relation to the transport of waste to a waste facility in a participating State, an authority (however expressed) issued in accordance with the laws of that participating State and authorising the transport of the waste to that facility.

consignor of waste means the person who arranges for the waste to be transported from the premises at which it is produced or from a waste facility that has accepted the waste.

equivalent transport authorisation means a licence or other authority that:

- (a) has been issued by a participating State, and
- (b) corresponds (or is similar) to an environment protection licence authorising the carrying out of the scheduled activity of transporting waste.

NEPM means the document titled *National Environment Protection (Movement of Controlled Waste between States and Territories) Measure 1998*.

participating State means a participating State (other than New South Wales), or a participating Territory, within the meaning of NEPM.

receiver of waste means the occupier of premises that are a waste facility.

transporter of waste means a person who transports waste.

waste transport certificate means:

- (a) in relation to the transport of waste produced in New South Wales, a waste transport certificate in a form approved by the EPA for the purposes of this Part, and

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- (b) in relation to the transport of waste into New South Wales from a participating State, a document required by the laws of that participating State to accompany the waste while it is being transported that includes the information contained in the form referred to in paragraph (a).

18 Transportation of waste to which Part applies

- (1) This Part applies to the transport of waste within New South Wales if the waste is of a type described in Part 1 of Schedule 1.
- (2) This Part applies to the transport of waste from New South Wales to a participating State, into New South Wales from a participating State or through New South Wales from one participating State to another if the waste is of a type described in Part 1 or Part 2 of Schedule 1.

Note. Clause 39 (1) provides a defence in proceedings for an offence against this Part if the defendant establishes that although the waste concerned was of a type described in Part 1 or 2 of Schedule 1 it did not exhibit any of the characteristics specified in Part 3 of that Schedule.

19 Transportation of waste to which Part does not apply

Despite clause 18, this Part does not apply to the following:

- (a) the transportation of waste in an emergency to protect human health, the environment or property,
- (b) the transportation of waste to a person or body for the purpose of use in analysis relating to waste categorisation or in research, but only if the transportation and use of the waste has been approved in writing by the EPA (in the case of the transport of the waste to a place in New South Wales) or by the agency, within the meaning of NEPM, of a participating State (in the case of the transport of the waste to that State),
- (c) the transportation of waste by pipeline,
- (d) the transportation of any residue of a substance in a container if the container will be refilled with the same type of substance and the substance in the refilled container is intended for use,
- (e) the transportation from a farm of unwanted chemicals resulting from the operation of the farm, but only if:
- (i) the transportation is carried out by the owner or occupier of the farm, and
 - (ii) the chemicals are transported to a collection place designated by a collection scheme approved in writing by the EPA or an agency of a participating State, and
 - (iii) the transportation is carried out without fee or reward being given,

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- (f) the transportation of waste in accordance with a product recall approved by the Australian Pesticides and Veterinary Medicines Authority, Food Standards Australia New Zealand or the Therapeutic Goods Administration of the Commonwealth.

20 Exemptions relating to other types of waste

The EPA may grant an exemption under clause 51 in relation to one or more of the provisions of this Part.

Division 2 Obligations on consignor of waste

21 Producers and receivers of waste taken to be consignors (unless authorised agent appointed by producer)

- (1) For the purposes of this Part, a producer of waste is taken to be the consignor of the waste in relation to the transport of the waste from the place at which it was produced to another place unless the producer has appointed an authorised agent in relation to the transportation of the waste in accordance with clause 27.
- (2) For the purposes of this Part, a receiver of waste who accepts waste is taken to be the consignor of the waste in relation to the transport of the waste from the waste facility at which it was accepted to another place.

22 Obligations on consignor of waste relating to transportation of waste

- (1) A consignor of waste must ensure that the waste is not transported from one place to another place unless the consignor:
 - (a) holds a consignment authorisation in respect of the waste, and
 - (b) has obtained a waste transport certificate for the waste and has certified that any part of the certificate that is required to be completed by the consignor has been completed accurately, and
 - (c) has given the waste transport certificate to the transporter of the waste, and
 - (d) has ensured that the transporter is licensed (if required by or under the Act) to transport the waste, and
 - (e) has ensured that the waste facility to which the waste is to be transported is legally able to accept waste of the type concerned.
- (2) A consignor of waste must:
 - (a) retain each consignment authorisation for a period of not less than 4 years after the day on which the consignment authorisation is obtained by the consignor, and

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- (b) retain a copy of each waste transport certificate for a period of not less than 4 years after the day on which a copy of the certificate was given by the consignor to the transporter of the waste, and
 - (c) make each document retained under paragraphs (a) and (b) available for inspection by an authorised officer on request.
- (3) A consignor of waste must not contravene or fail to comply with any condition of a consignment authorisation that is held by the consignor. Maximum penalty (subclauses (1)–(3)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

23 Copy of waste transport certificate to be given to producer of waste

Within 7 days after the day on which an authorised agent for a producer of waste gives a waste transport certificate to the transporter of the waste under clause 22 (1) (c), the authorised agent must give the producer a copy of the waste transport certificate in the same form as it was given by the agent to the transporter.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

Division 3 Obligations on transporter of waste

24 Obligations on transporters of waste

- (1) A transporter of waste must:
- (a) before transporting the waste, certify that any part of the waste transport certificate for the waste that is required to be completed by the transporter has been completed accurately, and
 - (b) before transporting the waste, ensure that there is a consignment authorisation that authorises the transport of the waste, and
 - (c) carry in the vehicle transporting the waste the waste transport certificate for the waste.
- (2) Except as provided by subclause (3), a transporter of waste must not remove the waste, or cause the waste to be removed, from the vehicle transporting the waste except in the following circumstances:
- (a) the receiver of the waste has been given the waste transport certificate in respect of the waste and has consented to the waste being removed,
 - (b) there is no waste transport certificate in respect of the waste but the receiver of the waste has consented to the waste being removed and is lawfully able to store the waste,

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- (c) the waste is being directly transferred to another vehicle, the transfer is recorded on the waste transport certificate and the waste transport certificate is given to the transporter operating the other vehicle.
- (3) A transporter of waste must remove the waste, or cause the waste to be removed, from the vehicle transporting the waste in accordance with the directions of an authorised officer if requested by the officer to do so.
- (4) A transporter of waste that has been rejected by the receiver of waste to whom the waste was delivered must:
- (a) obtain the waste transport certificate for the waste endorsed by the receiver with the information that the receiver has rejected the waste, and
 - (b) transport the waste to the waste facility identified under clause 26 (2) by the receiver.
- Note.** Clause 26 (3) provides that a consignment authorisation and waste transport certificate relating to waste that has been rejected by a receiver of waste are taken to authorise the transport of the waste to a waste facility at which the waste can be legally accepted.
- (5) A transporter of waste has a defence to a contravention of subclause (4) (b) if the transporter:
- (a) is not informed in accordance with clause 26 (2) of another waste facility to which the waste may be transported, and
 - (b) notifies the EPA in writing, within 3 working days after removing the waste from the waste facility at which it was rejected, of the waste facility to which the transporter transported the waste after it was rejected.
- (6) A transporter of waste must not contravene or fail to comply with any condition of a consignment authorisation for waste that is being transported by the transporter.

Maximum penalty (subclauses (1)–(4) and (6)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

Division 4 Obligations on receiver of waste

25 Obligations on receiver of waste relating to waste

- (1) Before accepting any waste, a receiver of waste must (except as provided by subclause (2)):
- (a) ensure that there is a consignment authorisation that authorises the transport of the waste, and
 - (b) obtain the waste transport certificate for the waste, and

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- (c) certify that any part of the certificate that is required to be completed by the receiver has been completed accurately.
- (2) A receiver of waste may accept waste if:
 - (a) there is no valid consignment authorisation or waste transport certificate for the waste or the waste transport certificate is inaccurate, and
 - (b) the receiver is licensed to store the waste.
- (3) If waste is transported to a waste facility without a waste transport certificate, the receiver of waste who occupies the facility must:
 - (a) generate a waste transport certificate for the waste, and
 - (b) complete as much of the certificate (including any parts that are required to be completed by the consignor and transporter except any signature or certification required) as is possible for the receiver to complete based on the information available to the receiver.
- (4) A receiver of waste must:
 - (a) within 3 working days after waste arrives at a waste facility occupied by the receiver, notify the EPA in writing if the waste was delivered without a valid consignment authorisation or waste transport certificate, and
 - (b) within 3 working days of accepting or rejecting waste, notify the EPA in writing if the receiver considers that the transport certificate for the waste is inaccurate and of the ways in which the receiver considers the certificate to be inaccurate, and
 - (c) in a case where the waste is rejected, notify the EPA in writing within 3 days after the waste is rejected that the waste has been rejected and the date on which it was rejected.
- (5) If waste is transported to a waste facility, the receiver of waste who occupies the facility must within 14 days after accepting or rejecting the waste, notify the consignor in writing whether the receiver has accepted or rejected the waste.
- (6) If waste is transported to a waste facility, the receiver of waste who occupies the facility must:
 - (a) as soon as practicable after the waste arrives at the facility, record on the waste transport certificate the date on which the waste arrived, and
 - (b) within 21 days of the arrival of the waste or such longer period as is permitted in writing by the EPA, record on the waste transport certificate for the waste whether the receiver has accepted or

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rejected the waste and the date on which the waste was accepted or rejected, and

- (c) in a case where the waste is accepted and is processed at the facility, record on the waste transport certificate, within 3 days after the waste is processed, the date on which the waste was processed and the method of processing used, and
- (d) in a case where the waste is accepted and is only stored at the facility, record on the waste transport certificate that the waste has been accepted for storage only, within 3 days.

Maximum penalty (subclauses (1) and (3)–(6)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

26 Receiver of waste may accept or reject waste

- (1) If a receiver of waste accepts waste delivered to a waste facility occupied by the receiver, any subsequent transport of the waste from the waste facility is to be treated as a new consignment of the waste for the purposes of this Part and, accordingly, requires a new consignment authorisation and waste transport certificate.

Note. Under clause 21 (2), a receiver of waste who accepts waste is taken to be the consignor of the waste in relation to the transport of the waste from the waste facility at which it was accepted to another place.

- (2) If a receiver of waste rejects waste delivered to the receiver, the receiver must inform the transporter of the waste of a waste facility to which the waste may be transported, being a waste facility at which the waste can be legally accepted.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

- (3) For the purposes of this Part, a consignment authorisation or waste transport certificate for waste that has been rejected by a receiver of waste is taken to authorise the transport of the waste to a waste facility at which the waste can legally be accepted.

Division 5 Authorised agents

27 Appointment of authorised agent

- (1) A producer of waste may appoint a person as an authorised agent in relation to the transportation of the waste.
- (2) The appointment of a person as an authorised agent of a producer of waste has no effect for the purposes of this Part unless:
 - (a) the person is the holder of an approval under clause 28 that is in force, and

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- (b) the appointment is evidenced by an agreement in writing between the person and the producer that clearly specifies that the person is appointed as an authorised agent of the producer for the purposes of this Part and is appointed to carry out the obligations of a consignor of the waste under this Part.
 - (3) The EPA may require (either generally or in a particular case or class of cases) that any such agreement be in a form approved by the EPA.
 - (4) A person must not act as an authorised agent for the purposes of this Part unless:
 - (a) the person is the holder of an approval under clause 28 that is in force, and
 - (b) the person has been appointed by the producer of the waste as the producer's authorised agent in accordance with this clause, and
 - (c) the appointment is evidenced as referred to in subclause (2) (b).
 Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
 - (5) A person appointed in accordance with this clause by a producer of waste to be an authorised agent of the producer must, within 7 days after the person's approval under clause 28 has been revoked, notify the producer or in writing of the revocation of the approval.
Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

28 Approval of authorised agents

- (1) The EPA may grant an approval in writing to a transporter or a receiver of waste authorising the appointment of the transporter or receiver as an authorised agent.
- (2) An approval may be issued subject to conditions.
- (3) The EPA may revoke an approval for any reason.
- (4) The EPA is not to revoke an approval unless it has given at least 14 days' notice in writing to the holder of the approval stating the reasons for the revocation.
- (5) The holder of an approval must not contravene or fail to comply with any condition of the approval.
Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
- (6) For the purposes of this Part, an approval of a person as an authorised agent that is revoked after waste has been transported from the premises of the producer for whom the person was appointed as authorised agent

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is taken to continue in force in respect of the transportation of the waste, but only until the waste is transported to a waste facility at which the waste is accepted.

Division 6 Consignment authorisations

29 Issue of consignment authorisations

- (1) The EPA or a receiver of waste approved under clause 30 by the EPA may issue a consignment authorisation to a consignor of waste in respect of the transport of waste to a waste facility in New South Wales.
- (2) A consignment authorisation is to be in a form approved by the EPA.
- (3) A consignment authorisation may authorise:
 - (a) the transportation of waste on one or more occasions, and
 - (b) the transportation of waste produced by one or more producers.
- (4) A receiver of waste must not issue a consignment authorisation unless the authorisation:
 - (a) is issued in accordance with the approval granted to the receiver under clause 30, and
 - (b) is in a form approved by the EPA, and
 - (c) is issued to a consignor of waste, and
 - (d) only authorises the transport of the waste to a waste facility occupied by the receiver issuing the authorisation, and
 - (e) is only issued for the transport of waste that the receiver issuing the authorisation could legally accept at that waste facility.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
- (5) A consignment authorisation has effect for such period (not exceeding 12 months from the date of its issue) as is specified in the consignment authorisation.
- (6) A consignment authorisation may be revoked for any reason by the EPA or by a receiving facility that issued it.
- (7) The EPA or a receiving facility is not to revoke a consignment authorisation unless it has given at least 7 days' notice in writing to the holder of the approval stating the reasons for the revocation.

30 Approval of receivers of waste to issue consignment authorisations

- (1) The EPA may grant an approval in writing to a receiver of waste for the purposes of issuing consignment authorisations.

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- (2) An approval may be issued subject to conditions.
- (3) The EPA may revoke an approval for any reason.
- (4) The EPA is not to revoke an approval unless it has given at least 7 days' notice in writing to the holder of the approval stating the reasons for the revocation.

31 Expired or revoked consignment authorisation

For the purposes of this Part, a consignment authorisation that authorised the transport of waste to a waste facility and that expires or is revoked after the waste leaves the place from which it is being transported is taken to continue in force in respect of that waste only until the waste is delivered to a waste facility at which it is accepted.

Division 7 Record keeping and returns

32 Record keeping requirements relating to producers of waste

A producer of waste who is not a consignor of the waste must retain the following records for at least 4 years:

- (a) copies of each waste transport certificate given to the producer by the consignor of the waste,
- (b) copies of each agreement evidencing the appointment of an authorised agent as referred to in clause 27 (2) (b).

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

33 Record keeping requirements relating to consignors of waste

A consignor of waste must retain the following records for at least 4 years:

- (a) copies of each waste transport certificate required to be completed by the consignor under this Part,
- (b) if the consignor is an authorised agent of one or more producers of waste, a list of premises from which waste that was the subject of such a waste transport certificate was transported,
- (c) if the consignor is an authorised agent of one or more producers of waste, copies of each agreement entered into by the consignor as referred to in clause 27 (2) (b).

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

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34 Record keeping requirements relating to transporters of waste

A transporter of waste must retain, for at least 4 years, copies of each waste transport certificate required to be completed by the transporter under this Part.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

35 Record keeping requirements relating to receivers of waste

A receiver of waste must retain the following records for at least 4 years:

- (a) copies of each consignment authorisation issued by the receiver,
- (b) each waste transport certificate given to the receiver for waste accepted by the receiver and each waste transport certificate generated by the receiver,
- (c) copies of each notice required to be given to the EPA under this Part.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

36 Returns by receivers of waste

A receiver of waste:

- (a) must provide the EPA (or such other person or body as may be approved for the purposes of this clause) with such information as the EPA (or other person or body) may require from time to time in relation to the waste received by the receiver, including (but not limited to) a description of the waste, the quantity of the waste and the proposed treatment intended for the waste, and
- (b) must retain a copy of the information provided for a period of at least 4 years from the time it was provided.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

37 Approved record-keeping systems

- (1) The EPA may approve a system (whether a paper-based system or an electronic system) for the purpose of keeping the records and giving the notices and other documentation required by this Part.
- (2) Without limiting clause 20, the EPA may grant an exemption under clause 51 that exempts a person required to keep records or submit notices or other documentation under this Part from any of the provisions of this Part if the person has established a system approved by the EPA under subclause (1).

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Division 8 Miscellaneous

38 Exemption relating to authorised interstate transporters of waste

- (1) This clause applies to any person who holds an equivalent transport authorisation and transports waste into or through New South Wales or from New South Wales to a participating State.
- (2) A person to whom this clause applies is, to the extent that the person transports waste into, through or from New South Wales, exempt from section 49 (2) of the Act.
- (3) Any such exemption is subject to the person complying with the conditions of the person's equivalent transport authorisation to the extent that those conditions apply to the transporting of waste to which this Part applies.

39 Defences

- (1) It is a defence to proceedings for an offence against any provision of this Part if the defendant establishes that although the waste concerned was of a type described in Part 1 or 2 of Schedule 1 it did not exhibit any of the characteristics specified in Part 3 of that Schedule.
- (2) It is a defence to proceedings for an offence against any provision of this Part relating to the transportation of waste if the defendant establishes that:
 - (a) the waste concerned was being transported through New South Wales to a participating State, and
 - (b) the waste was not loaded or unloaded in New South Wales, and
 - (c) the person complied with the laws of the place from which the waste was transported and the place to which the waste was being transported.

40 Offences relating to false information about waste

- (1) A producer, consignor, transporter or receiver of waste must not supply information about the waste to another person if the information is false or misleading in a material respect.
- (2) An authorised agent for a producer of waste must notify the EPA within 3 working days of becoming aware that the producer has given information about the waste to the agent that is false or misleading in a material respect.
- (3) In this clause, information about waste is *false or misleading in a material respect* if:
 - (a) it misrepresents the type, classification or characteristics of the waste, or

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- (b) it misrepresents the hazards or potential harm to human health or the environment associated with the transport, handling, deposit, disposal, storage, processing, recycling, recovery, re-use or use of the waste.

Maximum penalty (subclauses (1) and (2)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

41 Approved forms

- (1) The EPA may approve the form of any authorisation, certificate, notice, report or other document to be used for the purposes of this Part.
- (2) If a provision of this Part requires the giving or keeping (however expressed) of a document for which a form has been approved under this clause, the provision is to be read as requiring the giving or keeping of a document that complies with the approved form.

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Part 4 Management of special wastes

42 Special requirements relating to asbestos waste

- (1) This clause applies to any activity that involves the transportation, collection, storage, or disposal of any type of asbestos waste, regardless of whether the activity is required to be licensed.
- (2) A person who carries on an activity to which this clause applies must comply with the requirements specified in this clause in relation to the activity concerned.
Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
- (3) The requirements relating to the transportation of asbestos waste are as follows:
 - (a) any type of asbestos waste must not be transported unless it is conveyed in a covered leak-proof vehicle so as to prevent any spillage or dispersal of the waste,
 - (b) if asbestos waste that is in the form of stabilised asbestos waste in bonded matrix is to be transported and the waste is not stored in a bag in accordance with subclause (4) (c), the waste must be wetted before it is transported,
 - (c) any vehicle used to transport any type of asbestos waste must be cleaned before leaving the landfill site at which the waste is disposed of so as to ensure that all residual asbestos waste is removed from the vehicle.
- (4) The requirements relating to the collection and storage of asbestos waste are as follows:
 - (a) asbestos waste that is in the form of asbestos fibre and dust waste must be covered in such a manner as to prevent the emission of any dust,
 - (b) asbestos waste that is in the form of asbestos fibre and dust waste must not be collected and stored except in accordance with the following procedures:
 - (i) the waste must be collected and stored in impermeable bags,
 - (ii) each bag must be made of heavy duty low density polyethylene of at least 0.2 mm thickness, and have dimensions of no more than 1.2 m in height and 0.9 m in width,
 - (iii) each bag must be sealed by a wire tie, and contain no more than 25 kg of waste,

Protection of the Environment Operations (Waste) Regulation 2005

Clause 42

Management of special wastes

Part 4

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- (iv) each bag must be marked with the words “CAUTION ASBESTOS” in letters of not less than 40 mm and which comply with AS 1319—1994, *Safety signs for the occupational environment*,
 - (c) if asbestos waste in any form is stored in a bag, the following procedures must be followed:
 - (i) the bag must be placed in a leak-proof container that is used only for the purposes of storing asbestos waste,
 - (ii) the container must be marked with the words “DANGER—ASBESTOS WASTE ONLY—AVOID CREATING DUST” in letters of not less than 50 mm and which comply with the Australian Standard referred to in paragraph (b) (iv),
 - (iii) the container must have a close-fitting sealed cover so as to prevent any spillage or dispersal of the waste,
 - (d) asbestos waste in any form must not be stored except in accordance with the following procedures:
 - (i) the waste must be stored in a secure area so as to prevent entry by unauthorised persons and to prevent the risk of environmental harm,
 - (ii) the waste must, if it is practicable to do so, be stored separately from other types of waste,
 - (e) if asbestos waste that is in the form of stabilised asbestos waste in bonded matrix is stored otherwise than in a bag in accordance with paragraph (c), the following procedures must be followed:
 - (i) if it is practicable to do so, the waste must be wetted so as to prevent the emission of any dust,
 - (ii) in wetting the asbestos waste, care must be taken to ensure that the wetting process does not cause any emission of dust or lead to any discharge of polluted water,
 - (iii) the waste must be kept covered at all times.
 - (5) The requirements relating to the disposal of asbestos waste are as follows:
 - (a) asbestos waste in any form must be disposed of only at a landfill site that may lawfully receive the waste,
 - (b) disposal of asbestos waste in any form must be by way of burial,
 - (c) before disposal of the asbestos waste, arrangements must be made with the occupier of the landfill site for the purposes of ensuring that the asbestos waste will be covered:
 - (i) initially to a depth of at least 0.5 m, and

Clause 43 Protection of the Environment Operations (Waste) Regulation 2005

Part 4 Management of special wastes

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- (ii) finally to a depth of at least 1 m (in the case of stabilised asbestos waste in bonded matrix) or 3 m (in the case of asbestos fibre and dust waste) beneath the planned final land surface of the landfill site,
 - (d) the asbestos waste must:
 - (i) be disposed of in accordance with the arrangements under paragraph (c), and
 - (ii) be buried to the initial depth on the same day it is received at the landfill site,
 - (e) in disposing of asbestos waste in any form at a landfill site, the waste must:
 - (i) be unloaded in such a manner as to avoid the creation of dust, and
 - (ii) not be compacted before it is covered, and
 - (iii) not come into contact with any earthmoving equipment at any time.
 - (6) A person must not cause asbestos waste in any form to be used as road making material.
Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.
 - (7) In this clause, *asbestos waste* means any waste that contains asbestos as defined in the Waste Guidelines.

43 Special requirements relating to clinical waste

If a person disposes of clinical waste at a waste facility that is not licensed under the Act, the person must comply with the following requirements:

- (a) the waste must be disposed of only at a waste facility that is operated by a local authority and located outside the Sydney metropolitan area or extended regulated area,
- (b) the written approval of the local authority must be obtained before the waste is disposed of,
- (c) the waste must not be disposed of unless it was generated outside the Sydney metropolitan area or extended regulated area,
- (d) the waste must not contain any recognisable body parts, sharps waste, cytotoxic waste or radioactive waste,
- (e) the waste must be packaged in accordance with the requirements set out in the document called *NSW Health: Waste Management Guidelines for Health Care Facilities* issued by the Department of Health and dated August 1998,

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| Protection of the Environment Operations (Waste) Regulation 2005 | Clause 43 |
| Management of special wastes | Part 4 |

- (f) the waste must not be disposed of in amounts that exceed 40 kg at any one time,
- (g) the waste must be buried, or be immediately contained, in a manner that prevents the waste coming into contact with any person or animal.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

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| Clause 44 | Protection of the Environment Operations (Waste) Regulation 2005 |
| Part 5 | Prohibition against using certain waste for growing vegetation |

Part 5 Prohibition against using certain waste for growing vegetation

44 Definitions

In this Part:

apply waste to land includes (but is not limited to) application by:

- (a) spraying, spreading or depositing the waste on the land, or
- (b) ploughing, injecting or mixing the waste into the land.

residue waste means any of the following substances (and includes any substance incorporating, mixed with or made from any of the following substances):

- (a) fly ash or bottom ash from any furnace,
- (b) lime or gypsum residues from any industrial or manufacturing process,
- (c) residues from any industrial or manufacturing process that involves the processing of mineral sand,
- (d) substances that have been used as catalysts in any oil refining or other chemical process,
- (e) foundry sands and foundry filter bag residues,
- (f) residues from any industrial or manufacturing process that involves the refining or processing of metals or metallic products,
- (g) any substance that is hazardous waste, industrial waste or Group A waste.

45 Residue waste not to be applied to certain land

- (1) A person must not apply residue waste, or cause or permit residue waste to be applied, to any land that is used for the purpose of growing vegetation, including but not limited to land used for agricultural, horticultural, silvicultural, pastoral or environmental rehabilitation purposes.

Maximum penalty: 400 penalty units in the case of a corporation, 200 penalty units in the case of an individual.

- (2) It is a defence to a prosecution for an offence against this clause if the person establishes that the waste that was applied to the land had been lawfully sold as a soil improving agent or a trace element product within the meaning of the *Fertilisers Act 1985*.

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| Protection of the Environment Operations (Waste) Regulation 2005 | Clause 46 |
| Prohibition against using certain waste for growing vegetation | Part 5 |

46 Exemptions relating to residue waste

The EPA may from time to time grant an exemption under clause 51 that exempts a person from any one or more of the following provisions in relation to an activity or class of activities relating to residue waste, or a class of residue waste:

- (a) sections 47–49 and 88 of the Act,
- (b) the provisions of Schedule 1 to the Act,
- (c) the provisions of Part 3 and clause 45 of this Regulation.

Clause 47 Protection of the Environment Operations (Waste) Regulation 2005

Part 6 Miscellaneous

Part 6 Miscellaneous

47 Reporting requirements for non-licensed landfill sites

- (1) This clause applies to any landfill site that is not licensed under the Act.
- (2) However, this clause does not apply to:
 - (a) any premises where waste disposal is carried out otherwise than for business or other commercial purposes, or
 - (b) landfill sites that receive virgin excavated natural material only (and not any other type of waste).
- (3) The occupier of a landfill site to which this clause applies who has not previously provided the following details to the EPA must provide those details before 1 October 2005 or, in the case of any such landfill site that is established on or after 1 September 2005, within 30 days after being so established:
 - (a) the location of the landfill site,
 - (b) the name and address of the occupier of the landfill site.
- (4) The EPA may, by notice in writing given to the occupier of a landfill site to which this clause applies, require the occupier to complete the approved form relating to the landfill site. The occupier must return the completed form to the EPA within 60 days of receiving the notice.
- (5) Within 60 days after the end of each subsequent financial year, the occupier of a landfill site to which this clause applies must provide, in the approved form, the EPA with such information as the EPA requires in respect of the landfill site.

Maximum penalty (subclauses (3)–(5)): 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

48 Requirements relating to storage of waste generally

A person who stores waste on premises (whether or not the waste was produced on the premises) must ensure that it is stored in an environmentally safe manner.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

49 Requirements relating to waste transporting generally

A person who transports waste (whether or not required to hold a licence) must comply with the following requirements:

- (a) any vehicle used for the transport of the waste must be constructed and maintained so as to prevent spillage of the waste,

Protection of the Environment Operations (Waste) Regulation 2005

Clause 50

Miscellaneous

Part 6

- (b) any container used to transport the waste must be secured safely on the vehicle used to transport the waste,
- (c) any vehicle used by the person to transport waste must be covered when loaded,
- (d) incompatible wastes must not be mixed or transported together on any vehicle used by the person to transport waste,
- (e) any material segregated for recycling that is transported by the person must not be mixed with other waste.

Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

50 Immobilisation of contaminants in waste

- (1) The EPA may from time to time approve the immobilisation of contaminants in waste.
- (2) Such an approval has the effect of enabling the waste to which the approval relates to be assessed and classified in accordance with the procedures set out in the Waste Guidelines relating to immobilisation.
- (3) An approval under this clause may be a *general approval* or a *specific approval*.
- (4) A general approval may be given by way of notice published in the Gazette. A specific approval may be given after an application is made to the EPA.
- (5) An application for a specific approval must:
 - (a) be in the approved form, and
 - (b) be accompanied by such fee (if any) as the EPA may determine, and
 - (c) identify the contaminants to be immobilised, and
 - (d) be accompanied by such evidence as may be required by the EPA for the purposes of ascertaining whether the identified contaminants in the waste will be immobilised and will remain immobilised after disposal of the waste.
- (6) An approval is subject to such conditions as may be imposed by the EPA.
- (7) Without limiting the conditions to which an approval is subject, the EPA may impose conditions for or with respect to the following:
 - (a) disposal of the waste to which the approval relates,
 - (b) notification of certain matters to the EPA,
 - (c) record keeping requirements,

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| Clause 51 | Protection of the Environment Operations (Waste) Regulation 2005 |
| Part 6 | Miscellaneous |

(d) the immobilisation of the contaminants concerned.

- (8) In giving an approval under this clause, the EPA is required to identify a person (or class of persons) to whom the approval relates (the *responsible person*).
- (9) A general approval may be amended or revoked by the EPA by way of notice published in the Gazette.
- (10) A specific approval may be amended or revoked by the EPA by way of written notice given to the responsible person.
- (11) If an approval is given under this clause, the responsible person must comply with the conditions to which the approval is subject.
Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

51 General provisions relating to exemptions

- (1) The EPA may grant an exemption under this clause if authorised to do so by another provision of this Regulation.
- (2) An exemption may be granted in relation to:
- any person or class of persons, or
 - any premises or class of premises, or
 - any area or class of areas, or
 - any activity or class of activities, or
 - any other matter or thing or class of matters or things.
- (3) An exemption granted under this clause may be a *general exemption* or a *specific exemption*.
- (4) A general exemption may be given by way of notice published in the Gazette. A specific exemption may be given after an application is made to the EPA.
- (5) An application for a specific exemption must:
- be in the approved form, and
 - be accompanied by such fee (if any) as the EPA may determine, and
 - be accompanied by such information, documents or evidence as may be required by the EPA for the purposes of determining whether the exemption should be given.
- (6) An exemption under this clause is subject to such conditions as may be imposed by the EPA.

Protection of the Environment Operations (Waste) Regulation 2005

Clause 52

Miscellaneous

Part 6

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- (7) In giving an exemption under this clause, the EPA may, in relation to a general exemption, and must, in relation to a specific exemption, identify a person (or class of persons) to whom the exemption relates (the *responsible person*).
- (8) A general exemption may be amended or revoked by the EPA by way of notice published in the Gazette.
- (9) A specific exemption may be amended or revoked by the EPA by way of written notice given to the responsible person.
- (10) If an exemption is given under this clause for which a responsible person is identified, the responsible person must comply with the conditions to which the exemption is subject.
Maximum penalty: 400 penalty units in the case of a corporation, 200 penalty units in the case of an individual.

52 Offence of providing false information

A person must not, in or in connection with any application, claim or requirement under this Regulation, provide any information, or make any statement or record, that is false or misleading in a material respect.
Maximum penalty: 200 penalty units in the case of a corporation, 100 penalty units in the case of an individual.

53 Savings and transitional provisions

- (1) Any act, matter or thing that, immediately before the commencement of this clause, had effect under the *Protection of the Environment Operations (Waste) Regulation 1996* is taken to have effect under this Regulation.
- (2) Despite any other provision of this Regulation, a person is not entitled to claim a rebate under clause 11 in respect of a period occurring before the commencement of that clause unless the rebate could have been claimed under the *Protection of the Environment Operations (Waste) Regulation 1996* (as in force before that commencement).
- (3) A person who, immediately before the commencement of this clause, held a licence for the transporting of waste that authorised the person to act as an authorised contractor is taken for the period of 3 months after that commencement to hold an approval as an authorised agent under clause 28 that:
- (a) is subject to the same terms and conditions that applied to the person's authorisation as an authorised contractor, and
 - (b) may be revoked by the EPA in accordance with that clause.

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| Clause 54 | Protection of the Environment Operations (Waste) Regulation 2005 |
| Part 6 | Miscellaneous |

54 Interim regulatory provisions

The provisions of the *Protection of the Environment Operations (Waste) Regulation 1996* (as in force immediately before 1 September 2005 and including the uncommenced provisions of Part 2) are prescribed as a regulation under the Act:

- (a) except as provided by paragraph (b), with effect on and from 1 September 2005 until 1 March 2006, and
- (b) in relation to the provisions of Part 2, with effect on and from 1 December 2005 until 1 March 2006.

Note. Part 2 of the *Protection of the Environment Operations (Waste Regulation 1996* (which was inserted by the *Protection of the Environment Operations (Waste) Amendment (Residue Wastes) Regulation 2005*) has a commencement date of 1 December 2005.

55 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004

The *Protection of the Environment Operations (Penalty Notices) Regulation 2004* is amended as set out in Schedule 2.

Protection of the Environment Operations (Waste) Regulation 2005

Waste to which waste tracking requirements apply

Schedule 1

Schedule 1 Waste to which waste tracking requirements apply

(Clauses 18 and 39)

Part 1 Waste transported within NSW or interstate and required to be tracked

Description

Acidic solutions or acids in solid form

Antimony; antimony compounds

Arsenic; arsenic compounds

Asbestos

Barium compounds (excluding barium sulphate)

Basic solutions or bases in solid form

Beryllium; beryllium compounds

Boron compounds

Cadmium; cadmium compounds

Ceramic-based fibres with physico-chemical characteristics similar to those of asbestos

Chlorates

Chromium compounds (hexavalent and trivalent)

Clinical and related wastes

Cobalt compounds

Containers and drums that are contaminated with residues of substances referred to in this Part

Copper compounds

Cyanides (inorganic)

Cyanides (organic)

Encapsulated, chemically-fixed, solidified or polymerised wastes

Ethers

Filter cake

Fire debris and fire washwaters

Fly ash

Protection of the Environment Operations (Waste) Regulation 2005

Schedule 1 Waste to which waste tracking requirements apply

Description

Halogenated organic solvents

Highly odorous organic chemicals (including mercaptans and acrylates)

Inorganic fluorine compounds excluding calcium fluoride

Inorganic sulfides

Isocyanate compounds

Lead; lead compounds

Mercury; mercury compounds

Metal carbonyls

Nickel compounds

Non toxic salts

Organic phosphorous compounds

Organic solvents excluding halogenated solvents

Organohalogen compounds—other than substances referred to in this Part or Part 2

Perchlorates

Phenols, phenol compounds including chlorophenols

Phosphorus compounds excluding mineral phosphates

Polychlorinated dibenzo-furan (any congener)

Polychlorinated dibenzo-p-dioxin (any congener)

Residues from industrial waste treatment/disposal operations

Selenium; selenium compounds

Soils contaminated with a substance or waste referred to in this Part

Surface active agents (surfactants), containing principally organic constituents and which may contain metals and inorganic materials

Tellurium; tellurium compounds

Thallium; thallium compounds

Triethylamine catalysts for setting foundry sands

Vanadium compounds

Waste chemical substances arising from research and development or teaching activities, including those which are not identified and/or are new and whose effects on human health and/or the environment are not known

Waste containing peroxides other than hydrogen peroxide

Waste from heat treatment and tempering operations containing cyanides

Protection of the Environment Operations (Waste) Regulation 2005

Waste to which waste tracking requirements apply

Schedule 1

Description

Waste from manufacture, formulation and use of wood-preserving chemicals

Waste from the production, formulation and use of biocides and phytopharmaceuticals

Waste from the production, formulation and use of inks, dyes, pigments, paints, lacquers and varnish

Waste from the production, formulation and use of organic solvents

Waste from the production, formulation and use of photographic chemicals and processing materials

Waste from the production, formulation and use of resins, latex, plasticisers, glues and adhesives

Waste from the production and preparation of pharmaceutical products

Waste mineral oils unfit for their original intended use

Waste oil/water, hydrocarbons/water mixtures or emulsions

Waste pharmaceuticals, drugs and medicines

Waste resulting from surface treatment of metals and plastics

Waste tarry residues arising from refining, distillation, and any pyrolytic treatment

Waste substances and articles containing or contaminated with polychlorinated biphenyls, polychlorinated naphthalenes, polychlorinated terphenyls and/or polybrominated biphenyls

Waste of an explosive nature not subject to other legislation

Zinc compounds

Part 2 Waste transported interstate and required to be tracked

Animal effluent and residues (abattoir effluent, poultry and fish processing wastes)

Containers and drums that are contaminated with residues of waste referred to in this Part

Grease trap waste

Sewage sludge and residues including nightsoil and septic tank sludge

Soils contaminated with a substance or waste referred to in this Part

Tannery wastes including leather dust, ash, sludges and flours

Tyres

Wool scouring wastes

Protection of the Environment Operations (Waste) Regulation 2005

Schedule 1 Waste to which waste tracking requirements apply

Part 3 Characteristics of trackable wastes

| Dangerous Goods Class (UN Class) | UN Code | |
|---|----------------|--|
| 1 | H1 | <p>Explosive</p> <p>An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.</p> |
| 3 | H3 | <p>Flammable Liquids</p> <p>The word “flammable” has the same meaning as “inflammable”. Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc but not including substances or wastes) which give off flammable vapour at temperatures of not more than 60.5 degrees Celsius, closed-cup test, of not more than 65.6 degree Celsius, open-cup test.</p> |
| 4.1 | H4.1 | <p>Flammable solids</p> <p>Solids or waste solids which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.</p> |
| 4.2 | H4.2 | <p>Substances or wastes liable to spontaneous combustion</p> <p>Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up in contact with air, and being liable to catch fire.</p> |
| 4.3 | H4.3 | <p>Substances or wastes which, in contact with water, emit flammable gases</p> <p>Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.</p> |
| 5.1 | H5.1 | <p>Oxidising</p> <p>Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen, cause or contribute to, the combustion of other materials.</p> |
| 5.2 | H5.2 | <p>Organic peroxides</p> <p>Organic substances or wastes which contain the bivalent-O-O structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.</p> |

Protection of the Environment Operations (Waste) Regulation 2005

Waste to which waste tracking requirements apply

Schedule 1

| Dangerous Goods Class (UN Class) | UN Code | |
|---|----------------|--|
| 6.1 | H6.1 | Poisonous (acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact. |
| 6.2 | H6.2 | Infectious substances Substances or wastes containing viable micro-organisms or their toxins which are known or suspected to cause disease in animals or humans. |
| 8 | H8 | Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards. |
| 9 | H10 | Liberation of toxic gases in contact with air or water Substances or waste which, by liberation with air or water, are liable to give off toxic gases in dangerous quantities. |
| 9 | H11 | Toxic (delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity. |
| 9 | H12 | Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems. |
| 9 | H13 | Capable of yielding another material which possesses H1–H12 Capable by any means, after disposal, of yielding another material, eg leachate, which possesses any of the characteristics listed above. Other reasons Potential to have a significant adverse impact on ambient air quality. Potential to have significant adverse impact on ambient marine, estuarine or fresh water quality. |

Note. UN Class and Code relates to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods as used in Australia.

Protection of the Environment Operations (Waste) Regulation 2005
 Schedule 2 Amendment of Protection of the Environment Operations (Penalty Notices)
 Regulation 2004

Schedule 2 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 2004

(Clause 55)

[1] Schedule 1 Penalty notice offences

Insert “(as prescribed by clause 54 of the Protection of the Environment Operations (Waste) Regulation 2005)” after “Protection of the Environment Operations (Waste) Regulation 1996”.

[2] Schedule 1

Omit all the matter relating to the *Protection of the Environment Operations (Waste) Regulation 1996*.

Insert instead:

Protection of the Environment Operations (Waste) Regulation 2005

| Column 1 | Column 2 | Column 3 |
|-------------------------|----------|----------|
| Provision of Regulation | Officer | Penalty |
| Clause 6 (5) | 2A | \$500 |
| Clause 10 (2) | 2A | \$500 |
| Clause 10 (3) (a) | 2A | \$500 |
| Clause 10 (3) (b) | 2A | \$500 |
| Clause 11 (7) | 2A | \$500 |
| Clause 12 (1) | 2A | \$500 |
| Clause 12 (2) | 2A | \$500 |
| Clause 12 (3) | 2A | \$500 |
| Clause 13 | 2A | \$500 |
| Clause 14 (1) | 2A | \$500 |
| Clause 14 (2) | 2A | \$500 |
| Clause 15 (1) | 2A | \$500 |
| Clause 15 (2) | 2A | \$500 |
| Clause 16 (3) | 2A | \$500 |
| Clause 22 (1) | 2A | \$500 |
| Clause 22 (2) | 2A | \$500 |

Protection of the Environment Operations (Waste) Regulation 2005

Amendment of Protection of the Environment Operations (Penalty Notices) Schedule 2
Regulation 2004

| Column 1 | Column 2 | Column 3 |
|--------------------------------|-----------------|-----------------|
| Provision of Regulation | Officer | Penalty |
| Clause 22 (3) | 2A | \$500 |
| Clause 23 | 2A | \$500 |
| Clause 24 (1) | 2A | \$500 |
| Clause 24 (2) | 2A | \$500 |
| Clause 24 (3) | 2A | \$500 |
| Clause 24 (4) | 2A | \$500 |
| Clause 24 (6) | 2A | \$500 |
| Clause 25 (1) | 2A | \$500 |
| Clause 25 (3) | 2A | \$500 |
| Clause 25 (4) | 2A | \$500 |
| Clause 25 (5) | 2A | \$500 |
| Clause 25 (6) | 2A | \$500 |
| Clause 26 (2) | 2A | \$500 |
| Clause 27 (4) | 2A | \$500 |
| Clause 27 (5) | 2A | \$500 |
| Clause 28 (5) | 2A | \$500 |
| Clause 29 (4) | 2A | \$500 |
| Clause 32 | 2A | \$500 |
| Clause 33 | 2A | \$500 |
| Clause 34 | 2A | \$500 |
| Clause 35 | 2A | \$500 |
| Clause 36 | 2A | \$500 |
| Clause 40 (1) | 2A | \$500 |
| Clause 40 (2) | 2A | \$500 |
| Clause 42 (2) | 1, 2 | \$500 |
| Clause 42 (6) | 1, 2 | \$500 |
| Clause 43 | 1, 2 | \$500 |
| Clause 45 (1) | 1, 2 | \$750 |
| Clause 47 (3) | 2A | \$500 |

Protection of the Environment Operations (Waste) Regulation 2005

Schedule 2 Amendment of Protection of the Environment Operations (Penalty Notices)
Regulation 2004

| Column 1 | Column 2 | Column 3 |
|--------------------------------|-----------------|-----------------|
| Provision of Regulation | Officer | Penalty |
| Clause 47 (4) | 1, 2 | \$500 |
| Clause 47 (5) | 2A | \$500 |
| Clause 48 | 1, 2 | \$500 |
| Clause 49 | 1,2 | \$500 |
| Clause 50 (11) | 2A | \$500 |
| Clause 51 (10) | 2A | \$500 |
| Clause 52 | 1, 2 | \$500 |



New South Wales

Racing Administration Regulation 2005

under the

Racing Administration Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Racing Administration Act 1998*.

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

Explanatory note

The object of this Regulation is to remake, with one addition but otherwise without substantive changes, the *Racing Administration Regulation 1999*. That Regulation will be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The additional matter is a clause prescribing certain offences for the purposes of section 35A (Remedial orders) of the *Racing Administration Act 1998*. That section permits a court that finds a person guilty of an offence so prescribed to make certain orders in respect of the person (in addition, or as an alternative, to any penalty that it may impose for the offence). The orders may require, for example, the person to undertake a specified course of training that the court considers will promote responsible practices in the conduct of betting activities by the person.

This Regulation is made under the *Racing Administration Act 1998*, including section 35A and the other sections referred to in the Regulation and section 37 (the general regulation-making power—in particular, section 37 (3) and (4), which are concerned with the adoption of responsible practices in the conduct of betting authorised by or under the *Racing Administration Act 1998*).

Racing Administration Regulation 2005

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Racing Administration Regulation 2005

Clause 1

Preliminary

Part 1

Racing Administration Regulation 2005

under the

Racing Administration Act 1998

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Racing Administration Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Racing Administration Regulation 1999* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Racing Administration Act 1998*.

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

Clause 4 Racing Administration Regulation 2005

Part 2 Responsible gambling practices

Part 2 Responsible gambling practices

Division 1 Problem gambling signage and information

4 Definition

In this Division:

problem gambling information means the G-line (NSW) help line phone number operated under contractual arrangements made by the Department of Gaming and Racing.

5 Approval of gambling information brochures

- (1) The Minister may approve one or more pamphlets or brochures containing problem gambling information in the English language (a *problem gambling information brochure*).
- (2) A problem gambling information brochure must contain advice in the Arabic, Croatian, Chinese, Greek, Italian, Korean, Macedonian, Maltese, Serbian, Spanish, Turkish and Vietnamese languages that:
 - (a) indicates the substance of the information contained in English in the brochure, and
 - (b) advises that, on request, the information will be supplied in the relevant language by a non-proprietary association that conducts a race meeting at a licensed racecourse.
- (3) Subclause (2) does not prevent a notice under this clause containing other information.
- (4) The Minister may approve one or more pamphlets or brochures containing problem gambling information in the Arabic, Croatian, Chinese, Greek, Italian, Korean, Macedonian, Maltese, Serbian, Spanish, Turkish and Vietnamese languages (a *community language problem gambling information brochure*).
- (5) The Minister may vary or withdraw any approval given under this clause.

6 Provision of problem gambling information brochures

A non-proprietary association that conducts a race meeting at a licensed racecourse must ensure that:

- (a) copies of at least one type of problem gambling information brochure approved by the Minister under clause 5 (1) are made available in each part of the racecourse on which betting is conducted, and

Racing Administration Regulation 2005

Clause 7

Responsible gambling practices

Part 2

- (b) those copies are displayed in such a manner and in such a place that it would be reasonable to expect that a person in the part of the racecourse in which the brochures are displayed would be alerted to their presence.

Maximum penalty: 50 penalty units.

7 Provision of community language problem gambling information brochures

- (1) A person may request a non-proprietary association that conducts a race meeting at a licensed racecourse to supply a community language problem gambling information brochure approved by the Minister under clause 5 (4) in one of the languages specified in that subclause.
- (2) A non-proprietary association must supply a community language problem gambling information brochure in accordance with a request made under subclause (1) as soon as practicable after being requested to do so.

Maximum penalty: 50 penalty units.

8 Gambling information and warnings

A licensed bookmaker must ensure that each betting ticket supplied by the bookmaker to a person contains the following:

Is gambling a problem for you?
CALL G-line (NSW)
counselling service
1800 633 635

Maximum penalty: 50 penalty units.

9 Counselling signage—notice to be displayed

- (1) A non-proprietary association that conducts a race meeting at a licensed racecourse must:
- (a) display a notice that complies with this clause in the vicinity of the main entrance to the racecourse and in each part of the racecourse on which betting is conducted, and
- (b) display the notice in such a manner and in such a place that it would be reasonable to expect that a person using the part of the premises in relation to which the notice is displayed would be alerted to its contents.

Maximum penalty: 50 penalty units.

Clause 10 Racing Administration Regulation 2005

Part 2 Responsible gambling practices

- (2) The notice must contain the following:
Is gambling a problem for you?
CALL G-line (NSW)
counselling service
1800 633 635
- (3) Subclause (2) does not prevent a notice under this clause containing other information.
- (4) The notice must be at least 42 centimetres by 29.5 centimetres in size, and the matter contained in the notice must be in letters and figures of not less than 0.6 centimetres in height.

10 ATM and EFT signage

- (1) A non-proprietary association that conducts a race meeting at a licensed racecourse must display a notice in accordance with this clause in a prominent position on or adjacent to each automatic teller machine (ATM) and electronic funds transfer facility (EFT) located at the racecourse.
Maximum penalty: 50 penalty units.
- (2) The notice must contain the following:
Is gambling a problem for you?
CALL G-line (NSW)
counselling service
1800 633 635
- (3) Subclause (2) does not prevent a notice under this clause containing other information.
- (4) The matter contained in the notice must be in letters and figures of not less than 0.2 centimetres in height.
- (5) The notice may consist of a permanently visible light-emitting display that forms part of the machine or facility.

Division 2 Gambling advertising and inducements

11 Definitions

In this Division:

gambling advertising means advertising that gives publicity to, or otherwise promotes or is intended to promote, participation in gambling activities.

publish has the same meaning as it has in section 27 of the Act.

Racing Administration Regulation 2005

Clause 12

Responsible gambling practices

Part 2

12 Prohibitions on gambling-related advertising

- (1) A non-proprietary association or licensed bookmaker, or an employee or agent of a non-proprietary association or licensed bookmaker, must not publish any gambling advertising:
- (a) that encourages a breach of the law, or
 - (b) that depicts children gambling, or
 - (c) that is false, misleading or deceptive, or
 - (d) that suggests that winning will be a definite outcome of participating in gambling activities, or
 - (e) that suggests that participation in gambling activities is likely to improve a person's financial prospects, or
 - (f) that promotes the consumption of alcohol while engaging in gambling activities, or
 - (g) that is not published in accordance with decency, dignity and good taste and (in the case of a television commercial) in accordance with the *Commercial Television Industry Code of Practice* as in force at the time the gambling advertising is published.

Maximum penalty: 50 penalty units.

- (2) A non-proprietary association or licensed bookmaker, or an employee or agent of a non-proprietary association or licensed bookmaker, must not publish any gambling advertising in writing in a newspaper, magazine, poster or other printed form that does not contain the following in capital letters:

IS GAMBLING A PROBLEM FOR YOU?
G-LINE (NSW) IS A COUNSELLING SERVICE
CALL 1800 633 635

Maximum penalty: 50 penalty units.

- (3) A person other than a non-proprietary association or licensed bookmaker, or an employee or agent of a non-proprietary association or licensed bookmaker, must not publish any advertising that does any of the things referred to in subclause (1) (a)–(g).

Maximum penalty: 50 penalty units.

- (4) Subclause (3) does not apply if the advertising relates to a non-proprietary association or licensed bookmaker and the publication of the advertising was approved in writing by the non-proprietary association or licensed bookmaker or an employee or agent of the non-proprietary association or licensed bookmaker.

Clause 13 Racing Administration Regulation 2005

Part 2 Responsible gambling practices

(5) This clause does not apply to the publication of any gambling advertising under a contract or arrangement entered into before 2 February 2001.

(6) A non-proprietary association or licensed bookmaker, or an employee or agent of a non-proprietary association or licensed bookmaker, must not enter into or extend the duration of any contract or arrangement for the publication of gambling advertising that does not comply with this clause.

Maximum penalty (subclause (6)): 50 penalty units.

13 Gambling inducements

A non-proprietary association or licensed bookmaker, or an employee or agent of a non-proprietary association or licensed bookmaker, must not offer or supply any free or discounted liquor as an inducement to participate, or to participate frequently, in any gambling activity conducted at a racecourse.

Maximum penalty: 50 penalty units.

Racing Administration Regulation 2005

Clause 14

Miscellaneous

Part 3

Part 3 Miscellaneous

14 Exemption from prohibition on publication of information relating to dividends or betting odds: section 28 (2) and (3)

The following are prescribed for the purposes of section 28 (2) and (3) of the Act:

- (a) TAB Limited,
- (b) Seven Network Limited,
- (c) 2KY Broadcasters Pty Ltd,
- (d) Network 10 Limited,
- (e) Sky Channel Pty Ltd,
- (f) TCN Channel Nine Pty Ltd,
- (g) Australian Capital Television Pty Limited,
- (h) WIN Television,
- (i) Prime Television Limited,
- (j) Australian Broadcasting Corporation.

15 Exemption from offence provision relating to on-line service providers: section 30 (4)

- (1) Any person who:
 - (a) is a member of the Internet Industry Association, and
 - (b) is bound by the codes of practice prepared by that Association, is exempt from the operation of section 30 (3) of the Act.
- (2) If the Minister is satisfied that any such member has failed to comply with a code referred to in subclause (1), the Minister may, by notice in writing given to the member, exclude the member from the exemption under this clause for such period as is specified in the notice.

16 Remedial orders

The following offences are prescribed for the purposes of section 35A of the Act:

- (a) offences against sections 29, 30 and 33 of the Act,
- (b) offences against clauses 6, 7, 9, 10, 12 and 13 of this Regulation.

17 Saving

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



New South Wales

River Murray Traffic Regulation 2005

under the

Murray-Darling Basin Act 1992

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Murray-Darling Basin Act 1992*.

IAN MACDONALD, M.L.C.,
Minister for Natural Resources

Explanatory note

The objects of this Regulation are:

- (a) to regulate the operation of vessels at and in the vicinity of certain locks, weirs and other works located along the River Murray and the Murrumbidgee River, and
- (b) to prohibit people from fishing or swimming within 150 metres of a river work and from engaging in certain other activities on a river work except with the permission of an authorised officer or some other lawful authority.

This Regulation replaces the *River Murray Traffic Regulation 2000 (the repealed Regulation)*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. This Regulation is substantially the same as the repealed Regulation. However, this Regulation does not replicate the provisions of the repealed Regulation that provided for slightly extended opening hours of certain locks during the daylight saving period.

This Regulation is made under the *Murray-Darling Basin Act 1992*, including section 35 (the general regulation-making power).

This Regulation comprises or relates to matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth and of Victoria and South Australia.

River Murray Traffic Regulation 2005

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River Murray Traffic Regulation 2005

Clause 1

Preliminary

Part 1

River Murray Traffic Regulation 2005

under the

Murray-Darling Basin Act 1992

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *River Murray Traffic Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *River Murray Traffic Regulation 2000*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

authorised officer means:

- (a) a lock-keeper, superintendent or other officer or person employed by a Government department or by a statutory corporation who is in charge of a river work or river land, or
- (b) a person appointed under subclause (2) to exercise the functions of an authorised officer under this Regulation, or
- (c) a police officer of the Commonwealth or of New South Wales, Victoria or South Australia.

employee means an employee of the relevant water authority or of the Victorian Authority or the South Australian Authority.

lock means a lock specified in Schedule 1, and includes the chamber of a lock.

lock-keeper means the person in charge of a lock, whether that person was appointed by the relevant water authority or by the Victorian Authority or the South Australian Authority.

master, in relation to a vessel, means the person in charge of the vessel and, in relation to a vessel that is being towed by another vessel, the person in charge of the towing vessel.

Clause 4 River Murray Traffic Regulation 2005

Part 1 Preliminary

navigable pass, in relation to a weir, means the part of the weir that can be lowered during a period of high water flow that renders inoperable the chamber of the lock located at the weir.

prolonged blast means a blast lasting about 4 to 6 seconds, inclusive.

river land means an area of land (whether above or below pool levels or tide levels, or both, of the River Murray or its tributaries) that:

- (a) has been acquired in accordance with the Act or any Act repealed by the Act for the construction, maintenance, operation or control of any river work, and
- (b) is vested in the relevant water authority, the Victorian Authority or the South Australian Authority.

river work means:

- (a) a bridge, weir, dam, embankment, lock, navigable pass, barrage, reservoir, flume, race, channel, cutting, tunnel, pipe, sewer, tank regulator, sluice, aqueduct, drain, cut, well shaft, stone paving or pitching of a river bank or bed, fence or building constructed for the purposes of the Act or any Act repealed by the Act, or
- (b) any machinery or appliance forming part of, or used in connection with, such a work.

short blast means a blast lasting about 1 second.

South Australian Authority means the South Australian Water Corporation.

the Act means the *Murray-Darling Basin Act 1992*.

vessel means a ship, boat or marine craft of any description, whether it floats, hovers or is submersible.

Victorian Authority means the Goulburn-Murray Rural Water Authority.

weir means a weir specified in Schedule 1.

- (2) The relevant water authority, or the Victorian Authority or the South Australian Authority, may, in writing, appoint persons to be authorised officers for the purposes of this Regulation.
- (3) Notes included in this Regulation do not form part of this Regulation.

4 Application

This Regulation applies to and in relation to locks, weirs and other works specified in Schedule 1.

River Murray Traffic Regulation 2005

Clause 5

Control of vessels at locks

Part 2

Part 2 Control of vessels at locks

5 Control of a vessel that is passing through a lock

- (1) The master of a vessel that is passing through a lock must operate the vessel in accordance with the directions of the lock-keeper.
Maximum penalty: 10 penalty units.
- (2) If there is no person on board such a vessel who is able to comply with the direction of the lock-keeper, the lock-keeper may cause the vessel to be operated in such manner as the lock-keeper considers to be appropriate.
- (3) For the purposes of this clause, *operate* includes moor, unmoor, place and remove.

6 Specific powers of a lock-keeper

When exercising the powers conferred by clause 5 in relation to a vessel, the lock-keeper:

- (a) may unloose or cut any rope, or unshackle or break any chain, by which the vessel is moored or secured, and
- (b) may obtain such assistance as the lock-keeper considers necessary for the purpose of exercising those powers.

7 Order of precedence of vessels when passing through a lock

- (1) Whenever the masters of vessels travelling in the same direction wish to navigate those vessels through the same lock, the order of precedence for the passage of those vessels through the lock is the order in which they arrive at the lock.
- (2) However, the lock-keeper may give precedence to a commercial passenger vessel that is operating on an established timetable.

8 Times for the passage of vessels through locks

- (1) On each available day in any year, locks 7, 8 and 9 are to be open for the passage of vessels at any time between (and including) 8.00 am and 4.30 pm.
- (2) On each available day:
 - (a) lock 10 is to be open between (and including) 8.00 am and 4.00 pm, on the hour, for the passage of vessels travelling downstream, and
 - (b) lock 10 is to be open between (and including) 8.30 am and 3.30 pm, on the half-hour, for the passage of vessels travelling upstream, and

Clause 8 River Murray Traffic Regulation 2005

Part 2 Control of vessels at locks

- (c) lock 15 is to be open for the passage of vessels at any time between (and including) 8.00 am and 4.30 pm.
- (3) In this clause, *available day*, in relation to a lock, means a day on which the lock is available for the passage of river traffic in accordance with the Agreement.
- (4) A lock-keeper may authorise the passage of a vessel through a lock referred to in this clause at a time when the lock is not open as provided by this clause if:
- (a) an application for the vessel to pass through the lock at that time has been made so as to reach the lock-keeper at least 7 days before the date of the proposed passage, and
 - (b) payment of the charge for the special lockage has been tendered.

River Murray Traffic Regulation 2005

Clause 9

Signals for entering and leaving locks

Part 3

Part 3 Signals for entering and leaving locks

9 Signals required to be given when a vessel is approaching a lock

- (1) Whenever the master of a vessel intends to navigate the vessel through a lock, the master must, when the vessel is less than 600 metres but not less than 400 metres from the lock, signal that intention to the lock-keeper:
 - (a) by giving 3 prolonged blasts of the vessel's whistle or siren, or
 - (b) if the vessel does not have a whistle or siren:
 - (i) by waving a flag by day, or
 - (ii) either by day or at night, by flashing a light.

Maximum penalty: 10 penalty units.

- (2) On receiving such a signal, the lock-keeper must acknowledge the signal:
 - (a) by showing a red flag by day, or
 - (b) either by day or at night, by displaying a red flashing light, flashing at the rate of approximately 60 flashes per minute.

10 Lock-keeper's signal

- (1) A lock-keeper must give the signal that it is appropriate for a vessel to proceed through the lock:
 - (a) by showing a green flag by day, or
 - (b) either by day or at night, by displaying a green fixed light or a green flashing light, flashing at the rate of approximately 60 flashes per minute.
- (2) The master of a vessel must ensure that the vessel does not approach within 150 metres of a lock unless the signal to proceed has been given in accordance with subclause (1).

Maximum penalty: 10 penalty units.

11 Signal to be given where a vessel is about to proceed through a lock

The master of a vessel must, after receiving a signal that it is appropriate for the vessel to proceed through a lock but before proceeding into the lock, clearly signal to other vessels in the vicinity of the lock that the vessel is about to proceed into the lock:

- (a) by giving a prolonged blast and then a short blast of the vessel's whistle or siren, or

Clause 12 River Murray Traffic Regulation 2005
Part 3 Signals for entering and leaving locks

- (b) if the vessel does not have a whistle or siren:
 - (i) by waving a flag by day, or
 - (ii) either by day or at night, by flashing a light.
- Maximum penalty: 10 penalty units.

12 Vessel not to leave a lock until the lock-keeper's permission has been given

The master of a vessel that has entered a lock must ensure that the vessel does not leave the lock until the lock-keeper has given permission for the vessel to do so.

Maximum penalty: 10 penalty units.

River Murray Traffic Regulation 2005

Clause 13

Other signals

Part 4

Part 4 Other signals

13 Signals to be displayed when only the lock at a weir or barrage is available for the passage of river traffic

- (1) The following markers indicate that the only means of passage at a weir or barrage for river traffic is the lock:
 - (a) by day:
 - (i) a beacon with a green triangular topmark located at each end of the lock that is on the starboard (or right hand) side of the river when facing upstream, and
 - (ii) a beacon with a red square topmark located at each end of the lock that is on the port (or left hand) side of the river when facing upstream,
 - (b) at night—a vertical red strip light at each of the 4 extremities of the lock walls.
- (2) At the weir at Mildura only, the following additional markers indicate the starboard (or right hand) side of the navigable pass at the weir when facing upstream:
 - (a) by day—a black cone (with the apex pointing upwards) between 2 black balls, all fixed in a vertical line,
 - (b) at night—a green light between 2 red lights, all fixed in a vertical line.

14 Signals indicating when a navigable pass at a weir is open for river traffic

The following markers indicate that the navigable pass at a weir is open for the passage of river traffic:

- (a) by day:
 - (i) a green triangular shape on the starboard (or right hand) side of the pass when facing upstream, and
 - (ii) a red square shape on the port (or left hand) side when facing upstream,
- (b) at night:
 - (i) a green light on the starboard (or right hand) side of the pass when facing upstream, and
 - (ii) a red light on the port (or left hand) side of the pass when facing upstream.

Clause 15 River Murray Traffic Regulation 2005

Part 5 Provisions relating to locks

Part 5 Provisions relating to locks

15 Lock-keeper may refuse to allow vessels to enter the lock in certain cases

The lock-keeper at a lock may refuse permission for a vessel to enter the lock if:

- (a) the master of the vessel fails to give the signal as provided by clause 9, or
- (b) the draught of the vessel does not allow a clearance of at least 0.15 metres over the locksill, or
- (c) the lock-keeper is not satisfied that the vessel has sufficient crew, and adequate fenders and other equipment, to ensure that the vessel does not damage the lock when passing through it, or
- (d) there is anything projecting from either side of the vessel that is liable to damage the lock, or
- (e) work is in progress to demolish, construct, reconstruct, repair or maintain the lock or any weir adjacent to the lock.

16 Restrictions on approaching a weir where the navigable pass is closed

When the navigable pass at a weir is closed, the master of a vessel must ensure that the vessel does not approach within 150 metres of the weir except for the purpose of passing through the lock located at the weir.

Maximum penalty: 10 penalty units.

River Murray Traffic Regulation 2005

Clause 17

Miscellaneous

Part 6

Part 6 Miscellaneous

17 Miscellaneous offences

- (1) A person must not:
- (a) without the permission of an authorised officer, enter onto any river work unless the person is an employee who is performing his or her functions under the Act, or
 - (b) fail to leave a river work immediately after being required to do so by an authorised officer, or
 - (c) do anything that causes ballast, rock, stone or other matter to fall into a lock or onto the walls of a lock or into a place where it is likely to fall or be carried into a lock, or
 - (d) without the permission of an authorised officer, interfere with a valve, gate, machinery or other thing associated with a river work, or
 - (e) without the permission of an authorised officer, embark on or disembark from a vessel that is in a lock, or
 - (f) except:
 - (i) on a formed roadway or on a defined vehicular track that is open to the public, or
 - (ii) in accordance with the written permission of the relevant water authority or the oral or written permission of an authorised officer, or
 - (iii) at the direction of an authorised officer, or
 - (iv) in accordance with a sign erected by or under the authority of the relevant water authority,
ride, drive, stand or park a vehicle or ride or tether a horse on a river work, or
 - (g) without the written permission of the relevant water authority or an authorised officer, drive a vehicle that has a gross weight exceeding 15 tonnes on a roadway constructed on Hume Dam or Bethanga Bridge, or
 - (h) fish or swim in the River Murray, or in any tributary of that river, within 150 metres of a river work, or
 - (i) attempt to navigate a vessel into or through a lock after the lock-keeper has refused permission for the vessel to enter the lock.

Maximum penalty: 10 penalty units.

Clause 18 River Murray Traffic Regulation 2005

Part 6 Miscellaneous

- (2) For the purposes of subclause (1) (f), a formed roadway or defined vehicular track is to be regarded as being open to the public unless:
- (a) a barrier or gate is erected across the roadway or track, or
 - (b) a sign is erected on or adjacent to the roadway or track indicating that entry is prohibited, or
 - (c) an authorised officer informs the person concerned that the roadway or track is closed to the public.

18 Saving

Any act, matter or thing that, immediately before the repeal of the *River Murray Traffic Regulation 2000* had effect under that Regulation, is taken to have effect under this Regulation.

River Murray Traffic Regulation 2005

Locks, weirs and other works to which this Regulation applies

Schedule 1

**Schedule 1 Locks, weirs and other works to which
this Regulation applies**

(Clauses 3 and 4)

Bethanga Bridge

Hume Dam

Lake Victoria Works

Yarrowonga Weir

Locks Nos 7, 8, 9, 10 and 15

Weirs Nos 5 (Redbank), 7 (Maude) and 11 (Mildura)



New South Wales

State Authorities Superannuation Regulation 2005

under the

State Authorities Superannuation Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *State Authorities Superannuation Act 1987*.

JOHN DELLA BOSCA, M.L.C.,
Special Minister of State

Explanatory note

The object of this Regulation is to remake the provisions of the *State Authorities Superannuation Regulation 2000*. That Regulation is to be repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) prescribing the “early retirement age” for the purposes of the Act (clause 4),
- (b) providing for loadings in respect of shift allowances to be treated as part of a contributor’s salary for the purposes of the Act (clause 5),
- (c) prescribing the amount below which a contributor cannot elect to defer a benefit under the Act (clause 6),
- (d) providing for the reduction of certain specified benefits under the Act in order to offset certain tax liabilities of the Fund (Part 3, Division 1),
- (e) providing for the reduction of benefits payable in respect of contributors to whom a benefit has been released on the grounds of severe financial hardship or on compassionate grounds (Part 3, Division 2),
- (f) providing for certain benefits for firefighters (Part 4),
- (g) other minor, consequential and ancillary matters (clauses 1–3, 31 and 32).

This Regulation is made under the *State Authorities Superannuation Act 1987*, including section 55 (the general regulation-making power) and sections 3, 4, 43 and 45A.

This Regulation deals with matters of a machinery nature, matters arising under legislation that complements Commonwealth legislation and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

State Authorities Superannuation Regulation 2005

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Clause 1 State Authorities Superannuation Regulation 2005

Part 1 Preliminary

State Authorities Superannuation Regulation 2005

under the

State Authorities Superannuation Act 1987

Part 1 Preliminary

1 Name of Regulation

This Regulation may be cited as the *State Authorities Superannuation Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *State Authorities Superannuation Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

accrued benefit points has the same meaning as in section 36 of the Act.

additional surcharge amount means the amount of superannuation contributions surcharge assessed to be payable by a post payment surcharge assessment notice.

Commissioner of Taxation means the person holding office for the time being as the Commissioner of Taxation under a law of the Commonwealth.

post payment surcharge assessment notice means a notice of assessment of superannuation contributions surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth in respect of the employer contributions paid to the Fund on behalf of a former contributor, being a notice that is received by the former contributor after a benefit has commenced to be paid or has been paid to the former contributor.

surcharge debt account has the same meaning as in section 45A of the Act.

surcharge deduction cap means the maximum surcharge deduction amount that may be determined by STC under section 45A (1C) of the Act in relation to a benefit payable to a former contributor.

State Authorities Superannuation Regulation 2005

Clause 3

Preliminary

Part 1

the Act means the *State Authorities Superannuation Act 1987*.

total surcharge amount, in respect of a former contributor, means the sum of:

- (a) the total amount of superannuation contributions surcharge that has been assessed to be payable in respect of employer contributions paid to the Fund on the contributor's behalf up to and including the date on which the former contributor receives a post payment surcharge assessment notice, and
- (b) the amount (if any) of general interest charged in respect of the additional surcharge amount payable under that notice, and
- (c) the amount of interest (if any) payable in respect of the surcharge debt account kept in respect of the former member.

Note. Section 3 (1) of the Act defines **STC** as the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

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

Clause 4 State Authorities Superannuation Regulation 2005

Part 2 General provisions supplementary to Act

Part 2 General provisions supplementary to Act

4 Early retirement age

For the purposes of the definition of *early retirement age* in section 3 (1) of the Act, the prescribed early retirement age is 58 years.

5 Determination of loading in respect of shift allowance

(1) In this clause:

base salary, in relation to a contributor, means the remuneration, salary or wages payable to the contributor under an award of an industrial tribunal or under an industrial or enterprise agreement, but excluding all additional allowances payable to the contributor.

relevant period, in relation to a contributor, means the period of 12 months ending with 31 December immediately preceding the date on which the salary of the contributor is to be calculated for the purposes of the Act.

relevant shift means a shift worked by an employee in respect of which a shift allowance is payable by an employer.

trade union means:

- (a) an industrial organisation of employees registered or recognised as such under the *Industrial Relations Act 1996*, or
- (b) an association of employees registered as an organisation under the *Workplace Relations Act 1996* of the Commonwealth.

(2) For the purposes of section 4 (1) (a) of the Act, the loading (if any) to be treated as part of a contributor's salary for the purposes of the Act must be determined by reference to subclause (3), (4) or (5) according to whichever subclause is appropriate to the contributor.

(3) If:

- (a) there is in force an agreement between, or a practice accepted by, a trade union and the employer of a contributor which was in force immediately before 18 December 1987, and
- (b) the effect of the agreement or practice is that amounts that the employer pays to the contributor as shift allowances for relevant shifts worked by the contributor during a relevant period are treated as a loading for superannuation purposes, and
- (c) the total of those amounts is greater than that which would be determined under subclause (4) for that year in respect of the contributor,

then, for the purposes of section 4 (1) (a) of the Act, that total is the contributor's loading for those shift allowances.

State Authorities Superannuation Regulation 2005

Clause 5

General provisions supplementary to Act

Part 2

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- (4) Except where subclause (3) or (5) applies, if a contributor is paid shift allowances for shifts that the contributor has worked during a relevant period, then, for the purposes of section 4 (1) (a) of the Act, the contributor's loading for those allowances is to be determined by reference to the number of relevant shifts the contributor is taken to have worked (as calculated in accordance with subclause (6)) during the relevant period. The loading is:
- (a) if during the relevant period the contributor is taken to have worked not more than 104 relevant shifts—no amount, or
 - (b) if during the relevant period the contributor is taken to have worked more than 104 but not more than 156 relevant shifts—an amount equal to 10 per cent of the contributor's base salary for that period, or
 - (c) if during the relevant period the contributor is taken to have worked more than 156 but not more than 208 relevant shifts—an amount equal to 15 per cent of the contributor's base salary for that period, or
 - (d) if during the relevant period the contributor is taken to have worked more than 208 relevant shifts—an amount equal to 20 per cent of the contributor's base salary for that period.
- (5) If the amounts actually paid or payable to a contributor as shift allowances for shifts that the contributor has worked during a relevant period are less than the loading determined for the period in respect of the contributor in accordance with subclause (4), then, for the purposes of section 4 (1) (a) of the Act, the total of those amounts is the contributor's loading for those allowances.
- (6) For the purposes of subclause (4), the number of relevant shifts a contributor is taken to have worked during a relevant period is the number calculated as follows:

$$N = \frac{H}{H_0} \times S$$

where:

N is the number of relevant shifts the contributor is taken to have worked during the relevant period.

H is the number of hours per shift regularly required to be worked in relevant shifts during the relevant period.

H₀ is the smallest number of hours per shift regularly required to be worked (whether by the contributor or any comparable worker) in relevant shifts during any calendar year after 1987, including the relevant period.

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| Clause 6 | State Authorities Superannuation Regulation 2005 |
| Part 2 | General provisions supplementary to Act |

S is the sum of:

- (a) the number of relevant shifts the contributor actually worked during the relevant period, and
- (b) the number of relevant shifts the contributor would have actually worked during the relevant period but for the contributor being on leave, being leave for which a shift allowance or an equivalent allowance or loading (including that part of annualised salary that replaces shift allowance in respect of the contributor) is paid.

6 Minimum amount for election to defer benefit

The amount prescribed for the purposes of section 43 (1) and (1A) of the Act is \$500.

Note. Section 43 of the Act provides for a contributor's benefit under the Act to be deferred in certain circumstances pending the happening of certain events.

7 Payment by STC in relation to post payment surcharge assessment notice received by former contributor

- (1) If the total surcharge amount in respect of a former contributor who has paid an additional surcharge amount to the Commissioner of Taxation exceeds the surcharge deduction cap, STC may reimburse the former contributor by paying to the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.
- (2) STC may, at the request of a former contributor who has received a post payment surcharge assessment notice with respect to an additional surcharge amount that would, if paid, result in, or that has resulted in, the total surcharge amount exceeding the surcharge deduction cap, pay to the Commissioner of Taxation on behalf of the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.

Note. Clause 17 provides for further reduction of certain benefits resulting from the liability of a former contributor for superannuation contributions surcharge.

State Authorities Superannuation Regulation 2005

Clause 8

Benefit reduction provisions

Part 3

Part 3 Benefit reduction provisions

Division 1 Benefit reductions relating to tax liabilities

8 Definitions

In this Part:

continuous contributory service, in relation to a contributor, means the period beginning with the contributor's entry date and ending with the contributor's exit date.

taxable date means the date on which STC first becomes or became liable to pay income tax under a Commonwealth taxation law in respect of employers' contributions to the Fund.

9 Prescription of benefits

- (1) Subject to subclause (2), the kinds of benefits prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) are the benefits provided by section 37, 39, 40, 41, 42 or 43 of the Act.
- (2) A benefit arising as the result of the death of a person may be reduced by STC to offset tax liabilities of the Fund only as provided by clause 15.

Note. Section 37 of the Act provides for the payment of a benefit at or after a contributor's early retirement or on the contributor's death at or after reaching the early retirement age.

Section 39 of the Act provides for the payment of a benefit if a contributor becomes a total and permanent invalid before reaching early retirement age.

Section 40 of the Act provides for the payment of a benefit if a contributor becomes a partial and permanent invalid before reaching the early retirement age.

Section 41 of the Act provides for the payment of a benefit when a contributor resigns or is dismissed or discharged before reaching the early retirement age.

Section 42 of the Act provides for the payment of a benefit if a contributor is retrenched before reaching the early retirement age.

Section 43 of the Act provides for a contributor's benefit to be deferred in certain circumstances pending the happening of certain events.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

10 Reduction for section 37 of Act

- (1) If a benefit, other than a benefit arising as the result of the death of the contributor, becomes payable under section 37 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act (but

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| Clause 11 | State Authorities Superannuation Regulation 2005 |
| Part 3 | Benefit reduction provisions |

limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).

- (2) For the purposes of subclause (1), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times F \times 0.15$$

where:

R represents the amount of the reduction.

A represents the accrued benefit points for the contributor at the contributor's exit date.

B represents the period in days of continuous contributory service that began on the taxable date.

C represents the period in days of continuous contributory service for the contributor.

F represents the contributor's final average salary.

Note. Section 37 of the Act provides for the payment of a benefit at or after a contributor's early retirement or on the contributor's death at or after reaching the early retirement age.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

11 Reduction for sections 39 and 40 of Act

- (1) If a benefit becomes payable under section 39 or 40 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).
- (2) For the purposes of subclause (1), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times S \times 0.15$$

where:

R represents the amount of the reduction.

A represents the accrued benefit points for the contributor at the contributor's exit date.

B represents the period in days of continuous contributory service that began on the taxable date.

C represents the period in days of continuous contributory service for the contributor.

S represents the contributor's final salary.

State Authorities Superannuation Regulation 2005

Clause 12

Benefit reduction provisions

Part 3

Note. Section 39 of the Act provides for the payment of a benefit if a contributor becomes a total and permanent invalid before reaching the early retirement age.

Section 40 of the Act provides for the payment of a benefit if a contributor becomes a partial and permanent invalid before reaching the early retirement age.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

12 Reduction for section 41 of Act

- (1) If:
- (a) a benefit becomes payable under section 41 of the Act, and
 - (b) the contributor's period of continuous contributory service is 10 years or more,

the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).

- (2) For the purposes of subclause (1), the formula is:

$$R = T \times C \times \frac{A}{Y} \times 0.025 \times 0.15$$

where:

R represents the amount of the reduction.

T represents the period (expressed in years, with any fractional part of a year being calculated on the basis of complete contribution periods) that commenced on the taxable date or the contributor's entry date (whichever last occurred) and ended on the contributor's exit date.

C represents the amount of the contributor-financed benefit payable under section 41 (2) (a) of the Act.

A represents the accrued benefit points for the contributor at the contributor's exit date.

Y represents the number ascertained by adding together all of the contributor's contributed points figures calculated in relation to the contributor for the applicable contribution periods for the contributor.

- (3) A benefit payable under section 41 of the Act is not to be reduced if the contributor's period of continuous contributory service is less than 10 years.

Note. Section 41 of the Act provides for the payment of a benefit if a contributor resigns, is dismissed or discharged before reaching the early retirement age.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

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| Clause 13 | State Authorities Superannuation Regulation 2005 |
| Part 3 | Benefit reduction provisions |

13 Reduction for section 42 of Act

- (1) If a benefit becomes payable under section 42 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).
- (2) For the purposes of subclause (1), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times S \times 0.15$$

where:

R represents the amount of the reduction.

A represents the accrued benefit points for the contributor at the contributor's exit date.

B represents the period in days of continuous contributory service that began on the taxable date.

C represents the period in days of continuous contributory service for the contributor.

S represents the contributor's final salary.

Note. Section 42 of the Act provides for the payment of a benefit if a contributor is retrenched before reaching the early retirement age.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

14 Reduction for section 43 of Act

- (1) If a contributor elects to make provision for a deferred benefit under section 43 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).
- (2) For the purposes of subclause (1), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times F \times K^n \times 0.15$$

where:

R represents the amount of the reduction.

A represents the accrued benefit points for the contributor at the contributor's exit date.

B represents the period in days of continuous contributory service that began on the taxable date.

C represents the period in days of continuous contributory service for the contributor.

State Authorities Superannuation Regulation 2005

Clause 15

Benefit reduction provisions

Part 3

F represents the contributor's final average salary.

K represents the discount factor determined by STC for the purposes of section 43 (6) (b) of the Act.

n represents the period between the contributor's age at his or her exit date and the early retirement age, the period being expressed in years with any fractional part of a year being calculated on the basis of complete contribution periods.

Note. Section 43 of the Act provides for a contributor's benefit to be deferred in certain circumstances pending the happening of certain events.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

15 Transferred contributors: reduction of benefits

- (1) If a transferred contributor referred to in the *State Authorities Superannuation (Transitional Provisions) Regulation 1988*, or any other person, having a right to do so, elects under clause 38 of that Regulation, to take a pension benefit, then, subject to subclause (3), the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).
- (2) For the purposes of subclause (1), the formula is:

$$R = \frac{B}{C} \times 0.15 \times P$$

where:

R represents the amount of the reduction.

B represents the period in days of continuous contributory service that began on the taxable date.

C represents the period in days of continuous contributory service for the transferred contributor concerned.

P represents:

- (a) the proportion of the pension that is attributable to accrued benefit points and that, but for this clause, would be payable under clause 40, 41, 42 or 43 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* to that transferred contributor, or
- (b) if that transferred contributor has died—the proportion of the pension that is attributable to accrued benefit points and that, but for this clause, would be payable under clause 44 of that Regulation to the spouse or de facto partner of that contributor.

Clause 16 State Authorities Superannuation Regulation 2005

Part 3 Benefit reduction provisions

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- (3) If, in accordance with clause 38 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988*, the transferred contributor or other person referred to in subclause (1) elects to convert to a pension benefit only a portion of the benefit points of the transferred contributor, the benefit to be derived from the benefit points remaining after conversion is subject to reduction in accordance with the relevant provisions of this Part that apply to that benefit.
- (4) If the benefit of a transferred contributor within the meaning of the *State Authorities Superannuation (State Public Service Superannuation Scheme Transfer) (Savings and Transitional) Regulation 1989* is required to be reduced in accordance with a formula set out in clause 10, 11, 13 or 14 of this Regulation, the multiple “0.025” specified in the formula is, in relation to the contributor, to be read as the multiple “0.03”.

Note. Clause 38 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* deals with elections by transferred contributors (as defined in clause 3 (2) of that Regulation) to take pension benefits.

Clause 40 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is a normal employer-financed pension without reversion.)

Clause 41 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is a normal employer-financed pension with reversion.)

Clause 42 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is an employer-financed pension—invalidity without reversion.)

Clause 43 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is an employer-financed pension—invalidity with reversion.)

Clause 44 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* provides for the calculation of the employer-financed pension payable to the spouse or de facto partner of a deceased transferred contributor (as so defined) who elects to take a pension benefit provided by that clause.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

16 Reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 45A (3)

For the purposes of section 45A (3) of the Act, the benefits provided under the following provisions of the Act are prescribed:

State Authorities Superannuation Regulation 2005

Clause 17

Benefit reduction provisions

Part 3

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- (a) section 37 (Benefit at or after early retirement or on death at or after early retirement age),
 - (b) section 38 (Benefit on death before early retirement age),
 - (c) section 39 (Benefit on total and permanent invalidity before early retirement age),
 - (d) section 40 (Benefit on partial and permanent invalidity before early retirement age),
 - (e) section 41 (Benefit on resignation, dismissal or discharge before early retirement age),
 - (f) section 42 (Benefit on retrenchment before early retirement age),
 - (g) section 43 (Deferred benefit).

17 Further reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 45A (5)

- (1) STC may, at the request of a former contributor:
 - (a) adjust the amount of a benefit payable to the former contributor by reducing the benefit by an amount (the *reduction amount*) that is equivalent to the lesser of:
 - (i) the additional surcharge amount, and
 - (ii) the amount (not being less than nil) that is equal to the amount of the surcharge deduction cap less any previously met surcharge liability, and
 - (b) pay an amount equal to the reduction amount to the former contributor or to the Commissioner of Taxation.
- (2) In subclause (1), *previously met surcharge liability* means the sum of:
 - (a) all amounts paid by the former contributor to STC or the Commissioner of Taxation in relation to the total surcharge amount of the former contributor, and
 - (b) all amounts in respect of which adjustments relating to the benefit of the former contributor have previously been made under this clause or the Act in relation to superannuation contributions surcharge.
- (3) For the purposes of determining an adjustment under this clause, STC may obtain actuarial advice or advice from any other persons, as STC thinks fit.
- (4) This clause does not authorise STC to pay any amount that would result in payments made to or on behalf of the former contributor exceeding the total benefits to which the former contributor is entitled.

Clause 18 State Authorities Superannuation Regulation 2005

Part 3 Benefit reduction provisions

18 Limitation on payment of penalty interest

Clauses 7 and 17 do not authorise STC to pay any amount of general interest charged in respect of an additional surcharge amount payable under a post payment surcharge assessment notice unless the request for the payment is made within such period after the notice is received as STC considers reasonable.

19 Surcharge deduction amount

For the purposes of section 45A (1C) of the Act, the surcharge deduction amount determined by STC must not exceed the sum of:

- (a) an amount that is 15% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued after 20 August 1996 and before 1 July 2003, and
- (b) an amount that is 14.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2003 and before 30 June 2004, and
- (c) an amount that is 12.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2004 and before 30 June 2005, and
- (d) an amount that is 10% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2005.

Division 2 Benefit reductions relating to early release of benefits on ground of severe financial hardship or on compassionate grounds

20 Application of Division

The following benefits may be the subject of a reduction under this Division:

- (a) a benefit under section 37 (Benefit at or after early retirement or on death at or after early retirement age),
- (b) a benefit under section 38 (Benefit on death before early retirement age),
- (c) a benefit under section 39 (Benefit on total and permanent invalidity before early retirement age),
- (d) a benefit under section 40 (Benefit on partial and permanent invalidity before early retirement age),

State Authorities Superannuation Regulation 2005

Clause 21

Benefit reduction provisions

Part 3

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- (e) a benefit under section 41 (Benefit on resignation, dismissal or discharge before early retirement age),
 - (f) a benefit under section 42 (Benefit on retrenchment before early retirement age),
 - (g) a benefit under section 42AB (Compulsory preservation of benefits after changeover day),
 - (h) a deferred benefit.

21 Reduction of benefits

- (1) This clause applies to the reduction of benefits payable under the Act to or in respect of a contributor or former contributor (other than a benefit payable under section 43B or 43C of the Act) to whom a benefit has been previously released on the grounds of the contributor's or former contributor's severe financial hardship or on compassionate grounds.
- (2) If a benefit is released to a former contributor who has provided for a deferred benefit, STC must, on and from the date of the release, reduce the amount of the deferred benefit by the amount of benefit released. The amount of benefit payable when the deferred benefit is payable is to be reduced accordingly.
- (3) In any other case, STC must create a debt account in the Fund in respect of the contributor and must when a benefit is payable reduce the benefit that is payable by the amount debited to the debt account at the time the benefit is payable.
- (4) Despite subclause (3), if a contributor provides for a deferred benefit under the Act after the release of a benefit to the contributor concerned and before a benefit is otherwise payable, STC must, on and from the date the benefit is deferred, calculate the amount of benefit deferred and reduce that amount by the amount debited to the debt account at the time the benefit is deferred. The amount of benefit payable when the deferred benefit is payable is to be reduced accordingly.
- (5) The amount debited to the debt account is to be the amount of benefit released together with interest on that amount at a rate determined by STC.
- (6) STC may obtain actuarial advice for the purpose of determining the amount of a reduced benefit.

22 Consent to benefit reduction

Before releasing a benefit on the grounds of severe financial hardship or on compassionate grounds, STC must obtain the written consent of the contributor or former contributor to the reduction of benefits as a consequence of the early release.

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| Clause 23 | State Authorities Superannuation Regulation 2005 |
| Part 3 | Benefit reduction provisions |

23 Release of benefits during transitional period

- (1) This clause applies to the release of a benefit to a contributor or former contributor on the grounds of severe financial hardship or on compassionate grounds during the transitional period if:
 - (a) the release was not inconsistent with section 43B or 43C of the Act, as amended by the *Superannuation Legislation Amendment Act 2000*, and
 - (b) STC obtained the written consent of the contributor or former contributor to the reduction of benefits as a consequence of the early release.
- (2) Clauses 20 and 21 apply in respect of a release of benefit to which this clause applies in the same way as they apply to a release of benefit after the commencement of those clauses.
- (3) In this clause:

transitional period means the period commencing on the date of assent to the *Superannuation Legislation Amendment Act 2000* and ending on the commencement of section 43D of the Act, as substituted by that Act.

State Authorities Superannuation Regulation 2005

Clause 24

Firefighters award

Part 4

Part 4 Firefighters award

24 Meaning of “permanent firefighter” and “retained firefighter”

In this Part:

2003 firefighters award means the *Crown Employees (NSW Fire Brigades Firefighting Staff Death and Disability) Award 2003*.

permanent firefighter has the same meaning as in the 2003 firefighters award.

retained firefighter has the same meaning as in the 2003 firefighters award.

25 Prescription of firefighters award

For the purposes of the definition of *firefighters award* in section 46AF of the Act, the 2003 firefighters award is prescribed.

26 Provision of information

For the purposes of complying with or giving effect to the 2003 firefighters award, and only with the consent of the relevant employee, STC may provide to New South Wales Fire Brigades or the trustees of the Death and Disability Superannuation Fund under the 2003 firefighters award information about the employee obtained in the administration of the Act.

27 Existing firefighters may no longer apply for cover for additional benefit

- (1) This clause applies to an employee who was a permanent firefighter on 27 June 2003 and who had not, before that date, had an application for additional benefit cover approved under section 22 of the Act.
- (2) Despite section 20 of the Act, a person to whom this clause applies is not entitled to be covered for the additional benefit while employed as a permanent firefighter.

28 Existing or new firefighters who elect to relinquish cover for additional benefit

- (1) This clause applies to a person who:
 - (a) was a permanent firefighter on 27 June 2003 and elected to relinquish cover for the additional benefit on or before 26 June 2003, or
 - (b) commences employment as a permanent firefighter after 26 June 2003 and who elects to relinquish cover for the additional benefit within the period approved by NSW Fire Brigades for the purposes of this clause.

Clause 29 State Authorities Superannuation Regulation 2005

Part 4 Firefighters award

- (2) Despite section 22 of the Act, if this clause applies:
- (a) the firefighter ceases to be liable to pay the additional benefit levy in relation to any subsequent period during which the firefighter is not covered, and
 - (b) STC must effect the cessation of the additional benefit cover of the person on and from:
 - (i) 27 June 2003—in relation to a person referred to in subclause (1) (a), or
 - (ii) the date advised to STC by NSW Fire Brigades—in relation to a person referred to in subclause (1) (b), and
 - (c) the firefighter is not entitled to be covered for the additional benefit while employed as a permanent firefighter.

29 New firefighter employees covered for additional benefit

- (1) This clause applies to an employee who was not a permanent firefighter immediately before 27 June 2003 and who had not had an application for additional benefit cover approved under section 22 of the Act at the time of commencing employment as a permanent firefighter.
- (2) Despite section 20 of the Act, a person to whom this clause applies is not entitled to elect to be covered for the additional benefit while employed as a permanent firefighter.

30 Transfer of amount to Death and Disability Superannuation Fund

STC must, for the purposes of complying with or giving effect to the 2003 firefighters award, transfer to the Death and Disability Superannuation Fund an amount required as an offset under the 2003 firefighters award but only with the consent of the firefighter concerned.

State Authorities Superannuation Regulation 2005

Clause 31

Miscellaneous

Part 5

Part 5 Miscellaneous

31 Savings provision

Any act, matter or thing that, immediately before the repeal of the *State Authorities Superannuation Regulation 2000* had effect under that Regulation continues to have effect under this Regulation.

32 Validation of shift loading determinations

Anything done or omitted to be done, on or after 1 March 1999, that would have been validly done or omitted had clause 5 (6), as amended by Schedule 1 [1] to the *State Authorities Superannuation Amendment (Shift Allowance Loading) Regulation 2005*, been in force (under this Regulation, the *State Authorities Superannuation Regulation 2000* or the *State Authorities Superannuation Regulation 1995*) at the time that the thing was done or omitted, is validated.

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Regulations (*continued*)



New South Wales

State Authorities Non-contributory Superannuation Regulation 2005

under the

State Authorities Non-contributory Superannuation Act 1987

Her Excellency the Governor, on a certificate given under section 34 of the *State Authorities Non-contributory Superannuation Act 1987*, with the advice of the Executive Council, has made the following Regulation under the *State Authorities Non-contributory Superannuation Act 1987*.

JOHN DELLA BOSCA, M.L.C.,
Special Minister of State

Explanatory note

The object of this Regulation is to remake the provisions of the *State Authorities Non-contributory Superannuation Regulation 2000*. That Regulation is to be repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) providing for loadings in respect of shift allowances to be treated as part of a contributory's salary for the purposes of the Act (clause 4),
- (b) determining the eligible service of employees (clause 5),
- (c) providing for the reduction of basic benefits and deferred accrued benefits under the Act in order to offset certain tax liabilities of the Fund under the Act (Part 3, Division 1),
- (d) providing for the reduction of benefits payable in respect of employees to whom benefits have been released on the grounds of severe financial hardship or on compassionate grounds (Part 3, Division 2),
- (e) providing for death or incapacity benefits for firefighters (clause 13),
- (f) other minor, consequential and ancillary matters (clauses 1–3, 14 and 15).

This Regulation is made under the *State Authorities Non-contributory Superannuation Act 1987*, including section 34 (the general regulation-making power) and section 4.

This Regulation deals with matters of a machinery nature, matters arising under legislation that complements Commonwealth legislation and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

State Authorities Non-contributory Superannuation Regulation 2005

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State Authorities Non-contributory Superannuation Regulation 2005

under the

State Authorities Non-contributory Superannuation Act 1987

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *State Authorities Non-contributory Superannuation Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *State Authorities Non-contributory Superannuation Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

deferred accrued benefit means a benefit of the kind referred to in section 26E of the Act.

employee does not include an irregular employee.

the Act means the *State Authorities Non-contributory Superannuation Act 1987*.

Note. Section 3 (1) of the Act defines **STC** as the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

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

Clause 4 State Authorities Non-contributory Superannuation Regulation 2005

Part 2 General provisions supplementary to the Act

Part 2 General provisions supplementary to the Act

4 Determination of loading in respect of shift allowance

(1) In this clause:

base salary, in relation to an employee, means the remuneration, salary or wages payable to the employee under an award of an industrial tribunal or under an industrial or enterprise agreement, but excluding all allowances payable to the employee.

relevant period, in relation to an employee, means the period of 12 months ending with 31 December immediately preceding the date on which the salary of the employee is to be calculated for the purposes of the Act.

relevant shift means a shift worked by an employee in respect of which a shift allowance is payable by an employer.

trade union means:

- (a) an industrial organisation of employees registered or recognised as such under the *Industrial Relations Act 1996*, or
 - (b) an association of employees registered as an organisation under the *Workplace Relations Act 1996* of the Commonwealth.
- (2) For the purposes of section 4 (1) (a) of the Act, the loading (if any) to be treated as part of an employee's salary for the purposes of the Act must be determined by reference to subclause (3), (4) or (5) according to whichever is appropriate to the employee.
- (3) If:
- (a) there is in force an agreement between, or a practice accepted by, a trade union and the employer of an employee which was in force immediately before 18 December 1987, and
 - (b) the effect of the agreement or practice is that amounts that the employer pays to the employee as shift allowances for relevant shifts that the employee works during a relevant period are treated as a loading for superannuation purposes, and
 - (c) the total of those amounts is greater than that which would be determined under subclause (4) for that year in respect of the employee,

then, for the purposes of section 4 (1) (a) of the Act, that total is the employee's loading for those shift allowances.

- (4) Subject to subclauses (3) and (5), if an employee is paid shift allowances for shifts worked by the employee during a relevant period, then, for the purposes of section 4 (1) (a) of the Act, the employee's loading for those allowances is to be determined by reference to the

State Authorities Non-contributory Superannuation Regulation 2005

Clause 4

General provisions supplementary to the Act

Part 2

number of relevant shifts the employee is taken to have worked (as calculated in accordance with subclause (6)) during the relevant period. The loading is:

- (a) if during the relevant period the employee is taken to have worked not more than 104 relevant shifts—no amount, or
 - (b) if during the relevant period the employee is taken to have worked more than 104 but not more than 156 relevant shifts—an amount equal to 10 per cent of the employee's base salary for that period, or
 - (c) if during the relevant period the employee is taken to have worked more than 156 but not more than 208 relevant shifts—an amount equal to 15 per cent of the employee's base salary for that period, or
 - (d) if during the relevant period the employee is taken to have worked more than 208 relevant shifts—an amount equal to 20 per cent of the employee's base salary for that period.
- (5) If the amounts actually paid or payable to an employee as shift allowances for shifts that the employee has worked during a relevant period are less than the loading determined for that period in respect of the employee in accordance with subclause (4), then, for the purposes of section 4 (1) (a) of the Act, the total of those amounts is the employee's loading for those allowances.
- (6) For the purposes of subclause (4), the number of relevant shifts an employee is taken to have worked during a relevant period is the number calculated as follows:

$$N = \frac{H}{H_0} \times S$$

where:

N is the number of relevant shifts the employee is taken to have worked during the relevant period.

H is the number of hours per shift regularly required to be worked in relevant shifts during the relevant period.

*H*₀ is the smallest number of hours per shift regularly required to be worked (whether by the employee or any comparable worker) in relevant shifts during any calendar year after 1987, including the relevant period.

S is the sum of:

- (a) the number of relevant shifts the employee actually worked during the relevant period, and

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| Clause 5 | State Authorities Non-contributory Superannuation Regulation 2005 |
| Part 2 | General provisions supplementary to the Act |

- (b) the number of relevant shifts the employee would have actually worked during the relevant period but for the employee being on leave, being leave for which a shift allowance or an equivalent allowance or loading (including that part of annualised salary that replaces shift allowance in respect of the employee) is paid.

5 Determination of eligible service

- (1) The eligible service accrued by an employee for any day is such proportion of a day as is equal to the salary ratio of the employee on that day.
- (2) An employee who is on leave without pay that is not prescribed leave has a salary ratio of 0 in respect of that leave.
- (3) A continuous period of leave without pay is not to be regarded as leave without pay for the purposes of this clause if the period is not prescribed leave and the period is 5 days or less.
- (4) For the purposes of subclauses (2) and (3):

leave without pay, in relation to an employee, means a period of leave from employment with an employer (otherwise than on secondment as referred to in section 4 of the Act) during which the employee is not entitled to receive payment of salary from the employer.

prescribed leave, in relation to an employee, means leave without pay during which the employee on leave is absent from employment with an employer:

- (a) because of a grant of sick leave, or
- (b) for a period during which the employee receives periodic payments under an Act providing compensation for workers' injuries, or
- (c) because of a grant of maternity leave, or
- (d) under an agreement with the employer for the secondment of the employee to employment that is not employment with a person who is not an employer within the meaning of the Act, or
- (e) for the purpose of enabling the employee to perform trade union duties unless, in a particular case, the employer certifies to STC in writing that this paragraph is not to apply, or
- (f) for the purpose of enabling the employee to perform duties that the employer certifies to STC in writing to be in the interests of the employer or the State, or
- (g) while on service with the naval, military or air forces of the Commonwealth, or

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| State Authorities Non-contributory Superannuation Regulation 2005 | Clause 5 |
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- (h) in other circumstances decided by STC for the purposes of this clause.

Clause 6 State Authorities Non-contributory Superannuation Regulation 2005

Part 3 Benefit reduction provisions

Part 3 Benefit reduction provisions

Division 1 General

6 Definitions

In this Part:

final average salary and *final salary* have the same meaning as they have in Part 4 of the Act.

taxable date means the date on which STC first becomes or became liable to pay income tax under a Commonwealth taxation law in respect of employers' contributions to the Fund.

Note. By way of example only, the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* of the Commonwealth are Commonwealth taxation laws for the purposes of this clause.

7 Prescription of benefits

- (1) The kinds of benefits prescribed for the purposes of section 26A of the Act are the benefits provided by sections 22, 24 and 26E of the Act.
- (2) The benefits referred to in subclause (1) do not include a benefit payable as a result of the death of an employee.

Note. Section 22 of the Act deals with the basic benefit that is payable to employees.

Section 24 of the Act provides for an employee's basic benefit to be preserved in certain circumstances.

Section 26A of the Act empowers STC to reduce benefits to offset certain tax liabilities of a fund maintained under section 9 (1) of the Act.

Section 26E of the Act provides for non-contributing employees to have a deferred accrued benefit instead of a basic benefit.

8 Reduction of basic benefit

- (1) Whenever the basic benefit:
 - (a) is payable under section 23 of the Act in respect of an employee, or
 - (b) is preserved in respect of an employee in accordance with section 24 of the Act,

the reduction in benefit prescribed for the purposes of section 26A of the Act is the amount calculated in accordance with the formula set out in subclause (2).

State Authorities Non-contributory Superannuation Regulation 2005

Clause 9

Benefit reduction provisions

Part 3

- (2) For the purposes of subclause (1), the formula is:

$$R = 0.03 \times F \times Z \times 0.15$$

where:

R represents the amount of the reduction.

F represents:

- (a) in the case of the employee's resignation or retirement—the employee's final average salary, or
 (b) in any other case—the employee's final salary.

Z represents the employee's years of eligible service calculated on a daily basis, commencing on or after the taxable date.

- (3) This clause does not apply if the basic benefit is payable as a result of the death of a person who was, immediately before death, an employee.

Note. Section 23 of the Act provides for the immediate payment of a basic benefit on the happening of certain contingencies.

Section 24 of the Act provides for an employee's basic benefit to be preserved in certain circumstances.

Section 26A of the Act empowers STC to reduce benefits to offset certain tax liabilities of a fund maintained under section 9 (1) of the Act.

9 Reduction of deferred accrued benefit

- (1) Whenever a deferred accrued benefit:

- (a) is payable in respect of an employee, or
 (b) is preserved in accordance with section 26F of the Act in respect of an employee,

the reduction in benefit prescribed for the purposes of section 26A of the Act is the amount calculated in accordance with the formula set out in subclause (2).

- (2) For the purposes of subclause (1), the formula is:

$$R = 0.03 \times F \times Z \times 0.15$$

where:

R represents the amount of the reduction.

F represents the employee's final average salary.

Z represents the employee's years of eligible service calculated on a daily basis, during the period commencing on the taxable date and ending on 30 June 1992.

Clause 10 State Authorities Non-contributory Superannuation Regulation 2005

Part 3 Benefit reduction provisions

- (3) This clause does not apply if the deferred accrued benefit is payable in consequence of the death of a person who was, immediately before death, an employee.

Note. Section 26A of the Act empowers STC to reduce benefits to offset certain tax liabilities of a fund maintained under section 9 (1) of the Act.

Section 26F of the Act provides for the deferred accrued benefit to be preserved when an employee's employment is transferred.

Division 2 Benefit reductions relating to early release of benefits on grounds of severe financial hardship or on compassionate grounds

10 Application of Division

The following benefits may be the subject of a reduction under this Division:

- (a) section 22 (Basic benefit),
- (b) section 24 (Benefit to be preserved),
- (c) section 26E (Non-contributing employees to have deferred accrued benefit instead of basic benefit).

11 Reduction of benefits

- (1) This clause applies to the reduction of benefits payable under the Act to or in respect of an employee or former employee to whom a benefit has been previously released on the grounds of the employee's or former employee's severe financial hardship or on compassionate grounds.
- (2) If a benefit is released to a former employee who had preserved the basic benefit, STC must, on and from the date of the release, calculate the amount of the preserved basic benefit and reduce that amount by the amount of benefit released. The amount of benefit payable when the benefit preserved is payable is to be reduced accordingly.
- (3) In any other case, STC must create a debt account in the Fund in respect of the employee or former employee and must when a benefit is payable reduce the benefit that is payable by the amount debited to the debt account at the time the benefit is payable.
- (4) Despite subclause (3), if a benefit is preserved under the Act after the release of a benefit and before a benefit is otherwise payable, STC must, on and from the date the benefit is preserved, calculate the amount of benefit preserved and reduce that amount by the amount debited to the debt account at the time the benefit is preserved. The amount of benefit payable when the benefit provided for or preserved is payable is to be reduced accordingly.

State Authorities Non-contributory Superannuation Regulation 2005

Clause 12

Benefit reduction provisions

Part 3

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- (5) The amount debited to the debt account is to be the amount of benefit released together with interest on that amount at a rate determined by STC.
- (6) STC may obtain actuarial advice for the purpose of determining the amount of a reduced benefit.

12 Consent to benefit reduction

Before releasing a benefit on the grounds of severe financial hardship or on compassionate grounds, STC must obtain the written consent of the employee or former employee to the reduction of benefits as a consequence of the early release.

Clause 13 State Authorities Non-contributory Superannuation Regulation 2005

Part 4 Miscellaneous

Part 4 Miscellaneous

13 Death or incapacity benefits for firefighters

- (1) In this clause:
2003 firefighters award means the *Crown Employees (NSW Fire Brigades Firefighting Staff Death and Disability) Award 2003*.
- (2) For the purposes of the definition of *firefighters award* in section 27AE of the Act, the 2003 firefighters award is prescribed.
- (3) For the purposes of complying with or giving effect to the 2003 firefighters award, and only with the consent of the relevant employee, STC may provide to New South Wales Fire Brigades or the trustees of the Death and Disability Superannuation Fund under the 2003 firefighters award information obtained about the employee in the administration of the Act.
- (4) STC must, for the purposes of complying with or giving effect to the 2003 firefighters award, transfer to the Death and Disability Superannuation Fund the amount required as an offset under the 2003 firefighters award.
- (5) However, that amount must not be transferred unless the firefighter concerned has consented to the transfer.

14 Savings provision

Any act, matter or thing that, immediately before the repeal of the *State Authorities Non-contributory Superannuation Regulation 2000* had effect under that Regulation continues to have effect under this Regulation.

15 Validation of shift loading determinations

Anything done or omitted to be done, on or after 1 March 1999, that would have been validly done or omitted had clause 4 (6), as amended by Schedule 1 [1] to the *State Authorities Non-contributory Superannuation Amendment (Shift Allowance Loading) Regulation 2005*, been in force (under this Regulation, the *State Authorities Non-contributory Superannuation Regulation 2000* or the *State Authorities Non-contributory Superannuation Regulation 1995*) at the time that the thing was done or omitted, is validated.



New South Wales

Stock Foods Regulation 2005

under the

Stock Foods Act 1940

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Stock Foods Act 1940*.

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

Explanatory note

The object of this Regulation is to remake, with minor changes, the *Stock Foods Regulation 1997*. That Regulation will be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation deals with the following matters under the *Stock Foods Act 1940* (*the Act*):

- (a) the declaration of certain matters for the purposes of the definition of *foreign ingredient* in section 3 of the Act (clause 4 and Column 1 of Schedule 1),
- (b) the prescription of certain matters for the purposes of the definitions of *stock* and *stock food* in section 3 of the Act (clauses 5 and 6),
- (c) the labels and written statements to accompany packaged and bulk supplies of stock food (clauses 7–11),
- (d) the restriction of the maximum proportions and amounts of foreign ingredients in stock foods (clause 12 and Schedule 1),
- (e) the taking of samples for investigation (clause 13),
- (f) other matters of a minor, consequential or ancillary nature (clauses 1–3 and 14).

This Regulation adopts a table of maximum residue limits from *Maximum Residue Limits: the MRL Standard—maximum residue limits in food and animal feedstuff* published by the Australian Pesticides & Veterinary Medicines Authority.

This Regulation is made under the *Stock Foods Act 1940*, including section 35 (the general regulation-making power) and the sections mentioned in the Regulation.

Stock Foods Regulation 2005

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Stock Foods Regulation 2005

Clause 1

Preliminary

Part 1

Stock Foods Regulation 2005

under the

Stock Foods Act 1940

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Stock Foods Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Stock Foods Regulation 1997* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

label has the same meaning as in the Agvet Code.

manufactured stock food means stock food that has undergone a manufacturing process, but does not include hay, straw, chaff or any stock food that consists entirely of milk or products derived from milk.

MRL Standard means the document entitled *Maximum Residue Limits: the MRL Standard—maximum residue limits in food and animal feedstuff* being a document published in March 2005 by the Australian Pesticides & Veterinary Medicines Authority, together with such amendments to that document as are from time to time published in the Agricultural and Veterinary Chemicals Gazette.

Note. An up-to-date copy of *Maximum Residue Limits: the MRL Standard—maximum residue limits in food and animal feedstuff* is provided on the website of the Australian Pesticides & Veterinary Medicines Authority (at www.apvma.gov.au).

restricted animal material means the following:

- (a) tissue, blood or feathers derived from the carcass of an animal, including any substance produced from or containing any such tissue, blood or feathers (but not including tallow or gelatin),

Clause 4 Stock Foods Regulation 2005

Part 1 Preliminary

- (b) any tallow that has been used for cooking meat, poultry or fish (unless it has subsequently been filtered to remove all particulate matter).

Note. Milk products are not regarded as restricted animal material as they are not tissue or blood derived from the carcass of an animal.

ruminant means an animal that has a rumen, and includes an animal belonging to any of the following classes of animal, namely, cattle, sheep, goats and deer.

tallow means any product (including, but not limited to, a product known as tallow, yellow grease or acid oil) containing rendered fats and oils from any animal, or containing used cooking oil, being a product that complies with a specification of 2 per cent maximum moisture plus insoluble impurities.

the Act means the *Stock Foods Act 1940*.

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

4 Definition of “foreign ingredient”: section 3

- (1) The substances and things referred to in:
- (a) Column 1 of Schedule 1, or
 - (b) the first column of Table 4 to the MRL Standard,
- are declared to be foreign ingredients for the purposes of the Act.
- (2) In addition, in relation only to stock food for pigs, the additional substances set out in clause 60 (1) of the *Stock Diseases Regulation 2004* are declared to be foreign ingredients for the purposes of the Act.

5 Definition of “stock”: section 3

The following are prescribed as stock for the purposes of the Act:

- (a) horses,
- (b) animals belonging to food-producing species.

6 Definition of “stock food”: section 3

- (1) Meal derived from restricted animal material is prescribed as stock food for the purposes of the Act.
- (2) Any substance:
- (a) that is of a kind generally supplied otherwise than for use as stock food, and

Stock Foods Regulation 2005

Clause 6

Preliminary

Part 1

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- (b) that, in a particular supply, is not represented as being suitable for use as stock food,
is prescribed as not being stock food for the purposes of the Act in relation to that supply.
- (3) Any substance:
- (a) that is labelled for use for horses, and
 - (b) that is a vitamin, mineral or other type of supplement or premix,
and
 - (c) that does not contain any restricted animal material,
is prescribed as not being stock food for the purposes of the Act.

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|----------|---|
| Clause 7 | Stock Foods Regulation 2005 |
| Part 2 | Labels and written statements for stock foods |

Part 2 Labels and written statements for stock foods

7 Labelling of packages generally: section 6

A package of any manufactured stock food must have on it, or on a label securely and conspicuously attached to it:

- (a) a statement indicating the particular class of stock, and the age or stage of production of such stock, that the stock food will maintain or for which it will promote the growth or productive capacity, and
- (b) if the stock food contains more than 30 grams per kilogram of urea:
 - (i) a statement of the proportion (in grams per kilogram) of urea in the stock food, and
 - (ii) a warning that the stock food may be poisonous for some classes of stock, and
 - (iii) directions as to the proper use of the stock food, and
- (c) if the stock food contains more than 5 grams per kilogram of added salt, a statement of the proportion (in grams per kilogram) of salt added to the stock food.

Note. Examples of a class of stock might include stock of a particular species, or of a type within a species. Examples of an age or stage of production of stock might include weaner pigs, broiler chickens or lactating cows.

8 Labelling of packages of stock food: section 6

- (1) A package of any manufactured stock food containing restricted animal material must have on it, or on a label securely and conspicuously attached to it, the following statement:

This product contains restricted animal material—DO NOT
FEED TO CATTLE, SHEEP, GOATS, DEER OR OTHER
RUMINANTS.

- (2) A package of any manufactured stock food that does not contain restricted animal material must have on it, or on a label securely and conspicuously attached to it, the following statement:

This product does not contain restricted animal material.

- (3) The lettering in any statement referred to in subclause (1) or (2):
 - (a) must:
 - (i) if the statement is on a woven bag—be prominently displayed in letters of at least 10 millimetres in height, or

Stock Foods Regulation 2005

Clause 9

Labels and written statements for stock foods

Part 2

-
- (ii) in any other case—be prominently displayed in letters of at least 3 millimetres in height, and
- (b) must be printed on a background of contrasting colour.
- (4) If the statement referred to in subclause (1) or (2) is on a label, the label must measure at least 45 millimetres by 120 millimetres.

9 Offence to remove or interfere with label

A person must not, without reasonable excuse, remove, alter, obliterate or deface, or cause or permit the removal, alteration, obliteration or defacement of, any statement on, or any label attached to, a package of manufactured stock food in accordance with section 6 of the Act.

Maximum penalty: 10 penalty units.

10 Written statements concerning stock food supplied in bulk

A written statement about stock food that is supplied in bulk must contain the same information as is required by clauses 7 and 8 to appear on a label of stock food of the same kind supplied in a package.

11 Offence to remove or interfere with written statement

A person must not, without reasonable excuse, alter, obliterate or deface, or cause or permit the alteration, obliteration or defacement of, any written statement provided in accordance with section 6A of the Act.

Maximum penalty: 10 penalty units.

Clause 12 Stock Foods Regulation 2005

Part 3 Miscellaneous

Part 3 Miscellaneous

12 Restrictions on foreign ingredients: section 7

For the purposes of section 7 of the Act:

- (a) the maximum proportion or amount of any foreign ingredient specified in Column 1 of Schedule 1 that may be contained in stock food of a kind specified in Column 2 of that Schedule is the proportion or amount (if any) specified in Column 3 of that Schedule, and
- (b) the maximum proportion or amount of any foreign ingredient specified in the first column of Table 4 to the MRL Standard that may be contained in stock food of a kind specified in the second column of that Table is the proportion or amount (if any) specified in the third column of that Table, and
- (c) the maximum proportion or amount of any foreign ingredient specified in clause 60 (1) of the *Stock Diseases Regulation 2004* that may be contained in stock food for pigs is nil (that is, such stock food must not contain any such foreign ingredient).

13 Taking of samples: section 21

- (1) For the purposes of section 21 (1) of the Act, a sample of stock food must weigh at least one kilogram or, if the bulk from which it is taken weighs less than one kilogram, must comprise the whole of the bulk.
- (2) A sample may be taken from any part of the bulk and portions of a sample may be taken from different parts of the bulk so long as the portions are properly mixed before the sample is divided.
- (3) For the purposes of section 21 (3) of the Act, delivery of a sample to an analyst may be effected by causing the sample to be delivered to the analyst by any means.
- (4) For the purposes of section 21 (4) of the Act, the part of a sample retained by an inspector must be kept:
 - (a) in the possession of the inspector, or
 - (b) in a place to which only the inspector, and persons authorised by the inspector, have access,until the Director-General directs the inspector as to the manner in which the sample is to be disposed of.

14 Savings

Any act, matter or thing that, immediately before the repeal of the *Stock Foods Regulation 1997*, had effect under that Regulation is taken to have effect under this Regulation.

Stock Foods Regulation 2005

Foreign ingredients

Schedule 1

Schedule 1 Foreign ingredients

(Clauses 4 and 12)

Part 1 Prohibited substances

| Column 1 | Column 2 | Column 3 |
|------------------------------|--------------------------|----------------------|
| Foreign ingredient | Kind of stock food | Proportion or amount |
| 1 Clenbuterol | All stock foods | Nil |
| 2 Restricted animal material | Stock food for ruminants | Nil |

Part 2 Weed seeds and plants

| Column 1 | Column 2 | Column 3 |
|---|--------------------|---|
| Foreign ingredient | Kind of stock food | Proportion or amount |
| 1 <i>Amsinckia</i> spp. (Yellow burrweed) | Grain | 100 seeds per kilogram |
| 2 <i>Argemone mexicana</i> (Mexican poppy) | Grain | 20 seeds per kilogram |
| 3 <i>Crotolaria</i> spp. (Rattlepods) | All stock foods | Nil seeds or plant parts |
| 4 <i>Datura</i> spp. (Thornapples) | Grain | 5 seeds per kilogram |
| 5 <i>Echium plantagineum</i> (Paterson's curse) | Grain | 100 seeds per kilogram |
| 6 <i>Heliotropium europaeum</i> (Common heliotrope) or <i>Heliotropium amplexicaule</i> (Blue heliotrope), or both <i>Heliotropium europaeum</i> (Common heliotrope) and <i>Heliotropium amplexicaule</i> (Blue heliotrope) | Grain | 20 seeds of either species, or of a combination of both species, per kilogram |
| 7 <i>Ricinus communis</i> (Castor-oil plant) | All stock foods | Nil seeds or plant parts |
| 8 <i>Sesbania cannibina</i> (Sesbania pea) | Grain | 200 seeds per kilogram |

Stock Foods Regulation 2005

Schedule 1 Foreign ingredients

Part 3 Toxic compounds

| Column 1 | Column 2 | Column 3 |
|--|---|-----------------------------|
| Foreign ingredient | Kind of stock food | Proportion or amount |
| 1 Aflatoxin B1 | Grain and crushed grain | 0.01 grams per tonne |
| 2 Aflatoxin B1 | Manufactured stock foods for beef cattle and sheep | 0.05 grams per tonne |
| 3 Aflatoxin B1 | Manufactured stock foods for weaner or suckling pigs | 0.01 grams per tonne |
| 4 Aflatoxin B1 | Manufactured stock foods for pigs other than weaner or suckling pigs | 0.05 grams per tonne |
| 5 Aflatoxin B1 | Manufactured stock foods for dairy cows | 0.02 grams per tonne |
| 6 Aflatoxin B1 | Manufactured stock foods for ducks | 0.001 grams per tonne |
| 7 Aflatoxin B1 | Manufactured stock foods for layer chickens | 0.02 grams per tonne |
| 8 Aflatoxin B1 | Manufactured stock foods for poultry other than ducks or layer chickens | 0.01 grams per tonne |
| 9 Polychlorinated biphenyls | All stock foods | 0.05 grams per tonne |
| 10 Polybrominated biphenyls | All stock foods | Nil |
| 11 Aldrin | Manufactured stock foods | 0.01 grams per tonne |
| 12 Chlordane | Manufactured stock foods | 0.01 grams per tonne |
| 13 DDT, TDE and DDE (any combination) | Manufactured stock foods | 0.05 grams per tonne |
| 14 Dieldrin | Manufactured stock foods | 0.01 grams per tonne |
| 15 Endrin | Manufactured stock foods | 0.03 grams per tonne |
| 16 HCB | Manufactured stock foods | 0.01 grams per tonne |
| 17 Heptachlor | Manufactured stock foods | 0.02 grams per tonne |
| 18 Lindane (gamma BHC) | Manufactured stock foods | 0.1 grams per tonne |
| 19 Any combination of the substances listed in items 11–18 | Manufactured stock foods | 0.1 grams per tonne |

Stock Foods Regulation 2005

Foreign ingredients

Schedule 1

| Column 1 | Column 2 | Column 3 |
|--|---|-----------------------------|
| Foreign ingredient | Kind of stock food | Proportion or amount |
| 20 Ergots (<i>Claviceps spp.</i>) (including all fruiting bodies) other than sorghum ergot (<i>Claviceps africana</i>) | All stock foods | 200 grams per tonne |
| 21 Cadmium | Stock food for pigs | 0.5 grams per tonne |
| 22 Lead | All stock foods | 0.2 grams per tonne |
| 23 Mercury | Fish meal for pigs or poultry | 0.4 grams per tonne |
| 24 Mercury | Stock food other than fish meal for pigs or poultry | 0.02 grams per tonne |
| 25 Sorghum ergot (<i>Claviceps africana</i>) | All stock foods | 3,000 grams per tonne |



New South Wales

Stock (Chemical Residues) Regulation 2005

under the

Stock (Chemical Residues) Act 1975

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Stock (Chemical Residues) Act 1975*.

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

Explanatory note

The object of this Regulation is to replace the *Stock (Chemical Residues) Regulation 1995* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation includes provisions relating to:

- (a) the disposal of seized stock, and
- (b) the reporting of stock that are chemically affected, and
- (c) the reporting of stock that are not chemically affected, and
- (d) the powers of inspectors to survey land, and
- (e) the identification of stock.

This Regulation is made under the *Stock (Chemical Residues) Act 1975*, including sections 10 (2), 12C, 13A and section 16 (the general regulation-making power).

Stock (Chemical Residues) Regulation 2005

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Stock (Chemical Residues) Regulation 2005

Clause 1

Stock (Chemical Residues) Regulation 2005

under the

Stock (Chemical Residues) Act 1975

1 Name of Regulation

This Regulation is the *Stock (Chemical Residues) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Stock (Chemical Residues) Regulation 1995* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
the Act means the *Stock (Chemical Residues) Act 1975*.
- (2) Notes included in this Regulation do not form part of this Regulation.

4 Disposal of seized stock: section 10

- (1) For the purpose of section 10 (2) of the Act, the prescribed manner for disposing of stock seized under section 10 (1) of the Act is as provided by this clause.
- (2) The stock may be disposed of by the delivery of the stock to:
 - (a) the owner of the stock, or
 - (b) a person nominated by the owner of the stock, or
 - (c) the person who was in charge of the stock when the stock were seized.
- (3) However, the stock may be disposed of under subclause (2) only if:
 - (a) the delivery is approved by the Director-General, and
 - (b) payment is made to the Director-General for the costs and expenses incurred in connection with the seizure, keeping and delivery of the stock, as certified by an inspector.
- (4) Stock not disposed of in accordance with subclause (2) may be disposed of by way of sale in such manner as the Director-General may direct.

Clause 5 Stock (Chemical Residues) Regulation 2005

- (5) The balance of the proceeds of sale of stock disposed of under subclause (4) (less the costs and expenses incurred in connection with the seizure, keeping and sale of the stock, as certified by an inspector) must be paid to such person as the Director-General may direct.

**5 Reporting of test results indicating stock are chemically affected:
section 12C (a)**

- (1) For the purpose of section 12C (a) of the Act, subclauses (2) and (3) prescribe the manner, form and time in which particulars of test results indicating stock are chemically affected must be furnished under that section.
- (2) The owner of a laboratory or other facility that carried out the tests indicating that the stock are chemically affected must cause a written report to be prepared containing the following particulars in respect of each sample that indicates that stock are chemically affected:
- (a) the date the sample was taken,
 - (b) the date the sample was submitted to the laboratory or other facility,
 - (c) the name and address of the person who submitted the sample,
 - (d) the species of stock from which the sample was taken,
 - (e) if known—the name, address and telephone and facsimile numbers of the owner of the stock from which the sample was taken,
 - (f) if known—details identifying the property from which the stock came, including the address of the property, the rural lands protection district in which the property is situated, and the particulars of identification for the stock in accordance with the *Stock Diseases Act 1923*,
 - (g) the test method used or an identifying code for that test method,
 - (h) a description of the tissue or other material tested,
 - (i) any chemical residue identified which causes the stock to be categorised as chemically affected,
 - (j) the level of any chemical residue so identified.
- (3) A report referred to in subclause (2) must:
- (a) specify the name of the laboratory or other facility that carried out the testing, and
 - (b) contain an identifying number allocated in respect of the report by the laboratory or other facility, and
 - (c) be signed and dated by the analyst who had responsibility for the contents of the report, and

-
- (d) be furnished in person (including by courier), or by facsimile or other electronic means, and
 - (e) be furnished as soon as possible on the day that the test results indicating that the stock are chemically affected become available (or such later time as the office holder to whom the report is to be furnished may agree to in writing, but not being later than 24 hours after the test results become available).
- (4) For the purpose of section 12C (a) of the Act, the following office holders are prescribed in relation to the furnishing of particulars as contained in a report referred to in subclause (2):
- (a) Manager, Animal Residue Programs, National Residue Survey, Commonwealth Department of Agriculture, Fisheries and Forestry—in relation to a report of a kind notified by the Director-General to the owner of the laboratory or other facility concerned,
 - (b) Director-General—in all other cases.

6 Reporting of test results indicating that stock are not chemically affected: section 12C (b)

For the purpose of section 12C (b) of the Act, the following office holders are prescribed in relation to the furnishing of particulars of test results indicating that stock are not chemically affected:

- (a) Manager, Animal Residue Programs, National Residue Survey, Commonwealth Department of Agriculture, Fisheries and Forestry,
- (b) Director-General.

7 Power of inspectors: section 5

An inspector may conduct a survey or make a plan, map or diagram of the land that is, or may be, subject to a notice under section 7 or 8 of the Act, or of a notification under section 12 of the Act.

8 Prescribed persons: section 13A

The class of persons who are inspectors (not being officers of the Department of Primary Industries) are prescribed for the purposes of section 13A (2) (b) of the Act.

9 Data relating to the identification of stock

Data recorded under a scheme of identification of stock established under the *Stock Diseases Act 1923* may be released under that Act for use for the purposes of the *Stock (Chemical Residues) Act 1975*.

Clause 10 Stock (Chemical Residues) Regulation 2005

10 Identification of stock: section 16

- (1) If stock are subject to a detention notice, an inspector may, by order served on the owner or person in charge of the stock, require the person on whom the notice is served to cause a permanent identifier to be attached to the stock concerned, in a manner approved by the Director-General from time to time by order published in the Gazette.
- (2) A person on whom an order is served under subclause (1) must comply with the order.
Maximum penalty: 20 penalty units.
- (3) If a person fails or refuses to comply with an order under subclause (1), the inspector may cause a permanent identifier to be attached to the stock that are subject to a detention notice.
- (4) Any expenses reasonably incurred by an inspector in causing an identifier to be attached to stock (including the purchase of the identifier) under subclause (3) may be recovered from the person on whom the order was served under subclause (1).
- (5) Without limiting subclause (1), an inspector may attach an identifier (including a permanent identifier) to stock the subject of a detention notice in such manner as the inspector may determine.
- (6) A person must not knowingly remove, deface, damage or destroy an identifier attached to stock in accordance with this clause.
Maximum penalty: 20 penalty units.
- (7) In this clause:
attached includes implanted, inserted, administered or applied.
identifier has the same meaning as it has in Part 3 of the *Stock Diseases (General) Regulation 2004*.
permanent identifier has the same meaning as it has in Part 3 of the *Stock Diseases (General) Regulation 2004*.

11 Savings

Any act, matter or thing that, immediately before the repeal of the *Stock (Chemical Residues) Regulation 1995*, had effect under that Regulation is taken to have effect under this Regulation.



New South Wales

Stock Medicines Regulation 2005

under the

Stock Medicines Act 1989

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

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

Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Stock Medicines Regulation 1995*. That Regulation is repealed by section 10 (2) of the *Subordinate Legislation Act 1989* on 1 September 2005.

This Regulation, like the *Stock Medicines Regulation 1995*, contains provisions that prohibit the advertising of certain stock medicines and require a person who supplies stock food that has been treated with a stock medicine to provide certain information about the use of the stock food.

This Regulation also contains additional provisions that:

- (a) prescribe certain animals as *major food producing species*, and
- (b) specify the records to be kept by veterinary surgeons who prescribe, supply or use a stock medicine and the period of time these records must be retained, and
- (c) prescribe certain offences under the *Stock Medicines Act 1989* and this Regulation as offences for which penalty notices may be issued and prescribe the penalty amount for any such penalty notices.

These additional provisions are consequent on the proposed commencement of most of the provisions of the *Stock Medicines Amendment Act 2004* on the date of commencement of this Regulation.

This Regulation is made under the *Stock Medicines Act 1989*, including the definition of *major food producing species* in section 3 (1) and sections 39E, 60A and 65 (the general regulation-making power).

Stock Medicines Regulation 2005

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Stock Medicines Regulation 2005

Clause 1

Stock Medicines Regulation 2005

under the

Stock Medicines Act 1989

1 Name of Regulation

This Regulation is the *Stock Medicines Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Stock Medicines Regulation 1995* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

stock food has the same meaning as in the *Stock Foods Act 1940*.

the Act means the *Stock Medicines Act 1989*.

4 Advertising

- (1) This clause applies to any stock medicine containing a substance included in Schedule One, Three, Four or Eight of the Poisons List proclaimed under section 8 of the *Poisons and Therapeutic Goods Act 1966*.
- (2) A person must not advertise a stock medicine to which this clause applies otherwise than in a journal whose circulation is generally limited to, or in a document intended for distribution exclusively to, veterinary surgeons, pharmacists or wholesalers of stock medicines.
Maximum penalty: 50 penalty units.

5 Directions for use of stock food that has been treated with stock medicine

- (1) A person who supplies stock food to another person, knowing that the food has been treated with a stock medicine:
 - (a) must ensure that the person supplied is aware that the food has been so treated, and

Clause 6 Stock Medicines Regulation 2005

- (b) must provide the person supplied with such written details concerning the use of the stock medicine as were obtained by the supplier when the supplier obtained the food or when the supplier obtained the stock medicine with which the food has been treated.
- (2) The written details must include details of the relevant withholding period (within the meaning of Part 5 of the Act) for the stock medicine.
Maximum penalty: 50 penalty units.

6 Major food producing species

The following types of stock are prescribed for the purposes of the definition of *major food producing species* in section 3 (1) of the Act:

- (a) turkeys,
- (b) ducks,
- (c) geese,
- (d) bees,
- (e) goats,
- (f) farmed fish, farmed crustaceans and farmed molluscs.

7 Records to be kept by veterinary surgeons

- (1) The following particulars are to be recorded by veterinary surgeons for the purposes of section 39E of the Act:
 - (a) the date on which the use, supply or prescription of the stock medicine occurred,
 - (b) details to identify the particular stock on which the stock medicine was used,
 - (c) the name of the owner of the stock or the person in charge of the stock,
 - (d) particulars to identify the stock medicine,
 - (e) the name of the active constituent of the stock medicine,
 - (f) the type of stock for which the stock medicine is intended,
 - (g) the withholding period (including that there was no withholding period if the veterinary surgeon considered none was required),
 - (h) the dosage rate,
 - (i) the frequency of treatment,
 - (j) the length of treatment,
 - (k) the manner of administration.

Stock Medicines Regulation 2005

Clause 8

-
- (2) The records required by section 39E of the Act must be retained by the veterinary surgeon for a period of not less than 2 years from the date on which the use, supply or prescription of the stock medicine occurred.

Note. Section 39E of the Act requires certain records to be kept by a veterinary surgeon in accordance with the regulations. The maximum penalty for a failure to keep records in accordance with the regulations is 100 penalty units.

8 Penalty notices

For the purposes of section 60A 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:
 - (i) in the case of a penalty payable by an individual—the amount specified in relation to the offence in Column 2 of Schedule 1, and
 - (ii) in the case of a penalty payable by a corporation—the amount specified in relation to the offence in Column 3 of Schedule 1.

9 Savings

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

Stock Medicines Regulation 2005

Schedule 1 Penalty notices

Schedule 1 Penalty notices

(Clause 8)

| Column 1 | Column 2 | Column 3 |
|--------------------------------------|----------------------------------|----------------------------------|
| Provision | Penalty for an individual | Penalty for a corporation |
| Offence under the Act | | |
| Section 37 | \$1100 | \$2200 |
| Section 38 (1) | \$1100 | \$2200 |
| Section 39 (1) | \$1100 | \$2200 |
| Section 39C (1) | \$550 | \$1100 |
| Section 39C (2) | \$550 | \$1100 |
| Section 39C (3) | \$550 | \$1100 |
| Section 39D (1) | \$1100 | \$2200 |
| Section 39E | \$550 | \$1100 |
| Section 39F | \$550 | \$1100 |
| Section 40 (2) | \$1100 | \$2200 |
| Section 40A (1) | \$1100 | \$2200 |
| Section 40A (1A) | \$1100 | \$2200 |
| Section 40A (2) | \$1100 | \$2200 |
| Section 40B (1) | \$1100 | \$2200 |
| Section 46 (6) | \$1100 | \$2200 |
| Section 54 (2) | \$550 | \$1100 |
| Offence under this Regulation | | |
| Clause 4 (2) | \$550 | \$1100 |
| Clause 5 (1) | \$550 | \$1100 |



New South Wales

Strata Schemes Management Regulation 2005

under the

Strata Schemes Management Act 1996

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Strata Schemes Management Act 1996*.

DIANE BEAMER, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to remake with minor modifications the *Strata Schemes Management Regulation 1997* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for the following matters:

- (a) it prescribes records and accounts that must be kept by an owners corporation of a strata scheme,
- (b) it specifies the persons who are qualified to give insurance valuations of buildings in a strata scheme and prescribes the method of calculating the limit that may be placed on the liability of an insurer under an insurance policy for a building in a strata scheme,
- (c) it places restrictions on the delegation of certain functions under the *Strata Schemes Management Act 1996*,
- (d) it prescribes an amount for the purposes of section 80B of that Act which requires a large strata scheme to obtain quotations in relation to proposed expenditure on any item or service (other than legal advice or services) exceeding that prescribed amount,
- (e) it exempts an owners corporation from the requirement in section 80D of that Act to obtain approval at a general meeting before seeking legal advice or legal services or taking legal action if the reasonably estimated cost of doing so does not exceed an amount specified in the Regulation,
- (f) it sets out the method of electing the executive committee of an owners corporation,
- (g) it prescribes fees payable under that Act,

Strata Schemes Management Regulation 2005

Explanatory note

- (h) it specifies the time limit on making certain applications to the Consumer, Trader and Tenancy Tribunal and prescribes provisions relating to the conduct of certain proceedings before the Tribunal,
- (i) it prescribes provisions relating to the conduct of mediation sessions under that Act,
- (j) it prescribes model by-laws that may be adopted as the by-laws for a strata scheme,
- (k) it prescribes the manner in which the first annual general meeting of an owners corporation must be convened,
- (l) it prescribes forms for the purposes of that Act,
- (m) it prescribes an amount in relation to the definition of *priority vote* in that Act so that the definition will include a vote on a motion that relates to insurance, budgeting or fixing of a levy requiring expenditure above that amount,
- (n) it prescribes other minor and consequential provisions.

This Regulation is made under the *Strata Schemes Management Act 1996*, including section 246 (the general regulation-making power) and various other sections referred to in the Regulation.

Strata Schemes Management Regulation 2005

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Strata Schemes Management Regulation 2005

Clause 1

Preliminary

Part 1

Strata Schemes Management Regulation 2005

under the

Strata Schemes Management Act 1996

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Strata Schemes Management Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Strata Schemes Management Regulation 1997* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

In this Regulation:

the Act means the *Strata Schemes Management Act 1996*.

4 Notes

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

Clause 5 Strata Schemes Management Regulation 2005

Part 2 Records and accounts

Part 2 Records and accounts

5 Accounting records

- (1) The accounting records required to be kept for the purposes of section 103 of the Act are:
 - (a) receipts consecutively numbered, and
 - (b) a passbook, a deposit book, or statement of deposits and withdrawals that are in chronological order, for the account of the owners corporation, and
 - (c) a cash record, and
 - (d) a levy register.
- (2) The treasurer must keep separate accounting records for the administrative fund and the sinking fund.
- (3) Subject to the other provisions of this Part, the accounting records may be kept by mechanical, electronic or other means.

6 Receipts

- (1) The treasurer of an owners corporation must issue a receipt for each payment of money received by the treasurer on behalf of the owners corporation.
- (2) Each receipt must include the following:
 - (a) the date of issue of the receipt,
 - (b) the amount of money received,
 - (c) the form (cash, cheque, postal order or other) in which the money was received,
 - (d) the name and address of the person on whose behalf the payment was made,
 - (e) if the payment is for a contribution to the administrative or sinking fund:
 - (i) a statement that the payment is made in respect of that contribution, and
 - (ii) the lot number in respect of which the contribution is made, and
 - (iii) the period in respect of which the payment is made (if relevant), and
 - (iv) details of any discount given for early payment,
 - (f) if the payment is not a payment referred to in paragraph (e)—particulars of the transaction in respect of which the payment is received,

Strata Schemes Management Regulation 2005

Clause 7

Records and accounts

Part 2

-
- (g) if the payment is received in respect of more than one transaction—the manner in which the payment is apportioned between transactions.
- (3) The treasurer must:
- (a) in the case of a receipt issued from a receipt book—keep the duplicate receipt in the receipt book created by a carbon impression, or
 - (b) in the case of any other type of receipt—cause a record to be kept of all the details of the receipt.

7 Cash record

- (1) As soon as practicable after a transaction is effected, the treasurer must enter:
- (a) in a receipts section of the cash record—particulars of all money received, and
 - (b) in a payments section of the cash record—particulars of all money disbursed.
- (2) At the end of each prescribed period, the cash record must be balanced and the balance carried forward to the commencement of the next prescribed period and to a ledger account provided for that purpose.
- (3) At the end of each prescribed period, the treasurer must:
- (a) compare the entries in the cash record with the banking records for the account of the owners corporation, and
 - (b) enter in the cash record:
 - (i) the amounts credited to the account and appearing in the banking records for which no receipt had been given, and
 - (ii) the amounts debited to the account and appearing in the banking records for which no cheque had been drawn.
- (4) Any necessary reconciliation (showing the balance in the account of the owners corporation as indicated in the banking records, and adding any money received but not banked and deducting any cheques drawn but not presented for payment) must be entered in the cash record at the end of the entries for the relevant prescribed period.
- (5) In this clause:
- banking records** means the passbook, deposit book, or statement of deposits and withdrawals required to be kept under clause 5 for the account of an owners corporation.
- prescribed period** means 6 months or, if an annual general meeting of the owners corporation determines a shorter period, that shorter period.

Clause 8 Strata Schemes Management Regulation 2005

Part 2 Records and accounts

8 Levy register

- (1) The levy register must include a separate section for each lot in the strata scheme that is not a utility lot.
- (2) Each of those sections must specify, by appropriate entries, the following matters in relation to each contribution levied by the owners corporation and must indicate whether those entries are debits or credits and the balances for those entries:
 - (a) the date on which the contribution is due and payable,
 - (b) the type of contribution and the period in respect of which it is to be made,
 - (c) the amount of the contribution levied shown as a debit,
 - (d) the amount of each payment shown as a credit,
 - (e) the date on which each payment relating to the contribution is made,
 - (f) whether a payment made was made in cash or by cheque or in some other specified manner,
 - (g) whether an amount paid comprised full payment or part payment,
 - (h) details of any discount given for early payment,
 - (i) the balance of the account.

9 Inspection of records of strata managing agent

For the purposes of section 108 (3) (h) of the Act, the prescribed records to be made available for inspection are the records or books of account relating to the strata scheme that are kept by the strata managing agent.

10 Additional documents to be given to owners corporation by original owner or lessor at first annual general meeting

For the purposes of clause 4 (1) (d) of Schedule 2 to the Act, the following documents obtained or received by the owner or lessor and relating to the parcel concerned, or any building, plant or equipment on the parcel, are prescribed:

- (a) occupation certificates (within the meaning of the *Environmental Planning and Assessment Act 1979*),
- (b) sewerage line diagrams,
- (c) maintenance and service manuals,
- (d) depreciation schedules.

Strata Schemes Management Regulation 2005

Clause 11

Insurance

Part 3

Part 3 Insurance

11 Valuations to be obtained for insurance purposes

A person is qualified to carry out a valuation for the purposes of section 85 of the Act if the person:

- (a) is a registered valuer within the meaning of the *Valuers Act 2003*, or
- (b) has successfully completed a course conducted by a tertiary institution that qualifies the person to be a quantity surveyor.

12 Manner of calculation of insurance limit under damage policy: section 82 (6)

- (1) For the purposes of section 82 (6) of the Act, the manner of calculating the amount to which the liability of an insurer may be limited under a damage policy is to add together the following amounts:
 - (a) the estimated cost, as at the date of commencement of the damage policy, of the rebuilding of the building or its replacement by a similar building so that every part of the rebuilt building or the replacement building is in a condition no worse or less extensive than that part or its condition when the building was new,
 - (b) the estimated cost, as at the date of commencement of the damage policy, of removing debris from the parcel in the event of the building's being destroyed by an occurrence specified in the policy,
 - (c) the fees (estimated as at the date of commencement of the damage policy) payable to architects and other professional persons employed in the course of the rebuilding or replacement referred to in paragraph (a),
 - (d) the estimated amount by which expenditure referred to in the preceding paragraphs may increase during the period of 18 months following the date of commencement of the damage policy.
- (2) The amounts referred to in subclause (1) (a)–(d) are to be calculated so as to include any applicable taxes, fees and charges (including taxes, fees and charges of the Commonwealth).

| | |
|-----------|---|
| Clause 13 | Strata Schemes Management Regulation 2005 |
| Part 4 | Restrictions on exercise of functions by owners corporations and executive committees |

Part 4 Restrictions on exercise of functions by owners corporations and executive committees

13 Restriction on delegation of certain functions

For the purposes of section 29A of the Act, the following functions are prescribed:

- (a) arranging for inspections for the purposes of fire safety in accordance with section 65C of the Act,
- (b) ensuring that the owners corporation complies with any relevant requirements under the *Occupational Health and Safety Act 2000*,
- (c) entering into contracts relating to the maintenance of common property or the provision of services to the common property (other than contracts relating to a stratum parcel),
- (d) arranging for inspections of records and other documents under section 108 of the Act,
- (e) giving certificates under section 109 of the Act.

14 Quotations required by large strata schemes

For the purposes of section 80B of the Act, the prescribed amount is \$25,000 in relation to any one item or matter (other than the seeking of legal advice or the provision of any other legal services, or the taking of legal action).

Note. Section 80B of the Act requires an owners corporation of a large strata scheme to obtain at least 2 quotations for proposed expenditure exceeding the prescribed amount in relation to any one item or matter.

15 Exemptions from need for approval for certain legal action

- (1) The seeking of legal advice, the provision of legal services or the taking of legal action is exempt from the operation of section 80D of the Act if the reasonably estimated cost of seeking the legal advice, having the legal services provided or taking the legal action would not exceed:
 - (a) an amount equal to the sum of \$750 for each lot in the strata scheme concerned (excluding parking and utility lots), or
 - (b) \$10,000,
 whichever is the lesser.
- (2) In a case where the cost, or estimated cost, of seeking legal advice, having legal services provided or taking legal action has been:
 - (a) disclosed by the legal practitioner concerned in accordance with the *Legal Profession Act 1987*, or

Strata Schemes Management Regulation 2005

Clause 15

Restrictions on exercise of functions by owners corporations and executive committees

Part 4

(b) set out in a proposed costs agreement under that Act, the reasonably estimated cost of seeking the legal advice, having the legal services provided or taking the legal action is taken, for the purpose of this clause, to be the cost or estimated cost so disclosed or set out.

Clause 16 Strata Schemes Management Regulation 2005

Part 5 Election of executive committee of owners corporation

Part 5 Election of executive committee of owners corporation

16 Application of Part

This Part applies to the procedure for nomination and election of an executive committee for a strata scheme comprising more than 2 lots.

17 Election of executive committee

- (1) At a meeting of an owners corporation at which its executive committee is to be elected, the chairperson must:
 - (a) announce the names of the candidates already nominated in writing for election to the executive committee, and
 - (b) call for any oral nominations of candidates eligible for election to the executive committee.
- (2) A written or oral nomination made for the purposes of such an election is ineffective if it is made by a person other than the nominee unless it is supported by the consent of the nominee given:
 - (a) in writing, if the nominee is not present at the meeting, or
 - (b) orally, if the nominee is present at the meeting.
- (3) After the chairperson declares that nominations have closed, the owners corporation is to decide, in accordance with clause 2 (2) of Schedule 3 to the Act, the number of members of the executive committee.
- (4) If the number of candidates:
 - (a) is the same as, or fewer than, the number of members of the executive committee decided on—those candidates are to be declared by the chairperson to be, and are taken to have been, elected as the executive committee, or
 - (b) is greater than the number so decided on—a ballot is to be held.

18 Ballot for executive committee

- (1) If a ballot for membership of the executive committee of an owners corporation is required, the chairperson must:
 - (a) announce to the meeting the name of each candidate and the nominator of the candidate, and
 - (b) provide each person present and entitled to vote at the meeting with a blank ballot-paper for each vote the person is entitled to cast.

Strata Schemes Management Regulation 2005

Clause 18

Election of executive committee of owners corporation

Part 5

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- (2) For a vote to be valid, a ballot-paper must be signed by the voter and completed by the voter's writing on it:
- (a) the names of the candidates (without repeating a name) for whom the voter desires to vote, the number of names written being no more than the number determined by the owners corporation as the number of members of the executive committee, and
 - (b) the capacity in which the voter is exercising a right to vote, whether:
 - (i) as owner, first mortgagee or covenant chargee of a lot (identifying the lot), or
 - (ii) as a company nominee, or
 - (iii) by proxy, and
 - (c) if the vote is being cast by proxy—the name and capacity of the person who gave the proxy.
- (3) The completed ballot-paper must be returned to the chairperson.
- (4) Until all places for membership of the executive committee have been filled, the chairperson is to declare elected successively each candidate who has a greater number of votes than another candidate who has not been elected.
- (5) If only one place remains to be filled but there are 2 or more eligible candidates with an equal number of votes, the candidate to fill the place is to be decided by a show of hands of those present and entitled to vote.

Clause 19 Strata Schemes Management Regulation 2005

Part 6 Fees

Part 6 Fees

19 Fees

- (1) The following fees are payable to the Registrar in respect of the services specified:

| Service | Fee |
|---|---|
| Lodgment of application for order by an Adjudicator or the Tribunal | \$61 |
| Lodgment of application for interim order by an Adjudicator or the Tribunal | \$61 |
| Lodgment of notice of appeal | \$61 |
| Issue of summons to appear before the Tribunal | \$34 |
| Copy of document (other than transcript), per page | \$2 per page or \$22 (whichever is greater) |
| Duplicate tape recording of evidence or proceedings, per cassette | “at cost” |
| Copy of written transcript of evidence or proceedings, per page | “at cost” |

Note. There is no longer a fee for the inspection of a file.

- (2) The following fee is payable to the Director-General in respect of the service specified:

| Service | Fee |
|---------------------------|------|
| Application for mediation | \$61 |

- (3) The following fees are payable to an owners corporation for the services specified below:

| Service | Fee |
|--|---|
| For making records available for inspection under section 108 of the Act | \$26 and an additional \$13 for each half-hour or part of half an hour after the first hour of inspection |

Strata Schemes Management Regulation 2005

Clause 20

Fees

Part 6

| Service | Fee |
|---|--|
| For giving a certificate under section 109 of the Act | \$90 and an additional \$45 for a further certificate for a lot comprising a garage, parking space or storeroom that services the lot the subject of the first certificate |

- (4) For the purposes of section 209 (1) (b) of the Act, the prescribed fee for the lodgment of an order under the Act is the fee payable for lodgment of a document under the *Strata Schemes (Freehold Development) Act 1973* for which no specific fee is prescribed by the regulations under that Act.

Note. The relevant fee is prescribed by item 17 of Schedule 6 to the *Strata Schemes (Freehold Development) Regulation 2002*.

20 Waiver and remission of fees

- (1) The Director-General may waive payment of the fee under the Act for an application for mediation, or may remit any such fee paid to the Director-General, if the Director-General considers it appropriate to do so in the circumstances.
- (2) The Registrar may waive payment of any other fee under the Act, or may remit any such fee paid to the Registrar, if the Registrar considers it appropriate to do so in the circumstances.

Clause 21 Strata Schemes Management Regulation 2005

Part 7 Proceedings of Tribunal

Part 7 Proceedings of Tribunal

21 Time limit for certain applications to vary or revoke order of Tribunal: section 191 (2)

For the purposes of section 191 (2), the prescribed time within which an application may be made for an order varying or revoking an order of the Tribunal is 28 days.

22 Conduct of proceedings before Tribunal

- (1) An application to the Tribunal may be heard in the following manner if all of the parties indicate that they do not intend to call witnesses and the Tribunal and all of the parties agree that the application should be heard in that manner:
 - (a) each party may, in turn, present its case orally and unsworn and may be questioned by any other party,
 - (b) each party may produce and tender evidence in support of its case, unless the Tribunal directs that any such evidence may not be tendered,
 - (c) each party may comment on any other party's case after all of the parties have presented their cases,
 - (d) each party may make a final submission.
- (2) The order in which each party presents its case is to be as determined by the Tribunal.
- (3) This clause is a modification of the provisions of the *Consumer, Trader and Tenancy Tribunal Act 2001*, and of the regulations under that Act, for the purposes of section 222 (1) of the *Strata Schemes Management Act 1996*.

23 Modification of applied provisions of Consumer, Trader and Tenancy Tribunal Act 2001 and regulations: section 222 (1)

- (1) For the purposes of section 222 (1) of the Act, the application of the provisions of the *Consumer, Trader and Tenancy Tribunal Act 2001* in relation to proceedings before the Tribunal under the *Strata Schemes Management Act 1996* is modified in accordance with this clause.
- (2) Section 24 (4) of the *Consumer, Trader and Tenancy Tribunal Act 2001* applies in relation to notices of application for an order in addition to section 135 of the *Strata Schemes Management Act 1996*, and for that purpose:
 - (a) the words "subsection (3)" where firstly occurring in that subsection are taken to refer to section 135 (1) of the *Strata Schemes Management Act 1996*, and

Strata Schemes Management Regulation 2005

Clause 23

Proceedings of Tribunal

Part 7

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- (b) section 24 (4) (b) of the *Consumer, Trader and Tenancy Tribunal Act 2001* is amended by omitting the words “in accordance with the Chairperson’s directions referred to in subsection (3)” and by inserting instead the words “within such time and manner as the Chairperson directs”.
- (3) Section 68 of the *Consumer, Trader and Tenancy Tribunal Act 2001* is to be read as not permitting an application to be made for a rehearing under that section in relation to proceedings under the *Strata Schemes Management Act 1996*.

Note. Section 222 (1) of the Act provides that the provisions of the *Consumer, Trader and Tenancy Tribunal Act 2001*, and of the regulations made under that Act, apply in relation to proceedings under the *Strata Schemes Management Act 1996* before the Consumer, Trader and Tenancy Tribunal, subject to any modifications prescribed by the regulations.

Sections 28 (5) (g), (h) and (i), 36 and 53 of the *Consumer, Trader and Tenancy Tribunal Act 2001* do not apply to proceedings under the *Strata Schemes Management Act 1996*: see sections 28 (7), 36 (9) and 53 (5) of the *Consumer, Trader and Tenancy Tribunal Act 2001*. As a consequence, Part 4 (being clauses 13–18) and clause 20 of the *Consumer, Trader and Tenancy Tribunal Regulation 2002* also do not apply to proceedings under the *Strata Schemes Management Act 1996* before the Consumer, Trader and Tenancy Tribunal.

Clause 24 Strata Schemes Management Regulation 2005

Part 8 Mediation

Part 8 Mediation

24 Directions of Commissioner

The Commissioner may give directions for regulating and prescribing the practice and procedure to be followed in connection with a mediation session, including the preparation and service of documents.

25 Attendance and representation

- (1) A mediation session must be attended by each party or by a legal representative, or other representative, having authority to settle the matter.
- (2) Other persons may attend a mediation session with the leave of the mediator.

26 Termination

- (1) A mediator may terminate a mediation.
- (2) A party may terminate a mediation at any time by giving notice of the termination to the Commissioner, the mediator and each other party.

Strata Schemes Management Regulation 2005

Clause 27

Miscellaneous

Part 9

Part 9 Miscellaneous

27 Model by-laws: section 43

Model by-laws for different types of strata schemes are set out in Schedules 1–6.

28 Convening of first annual general meeting of owners corporation

A meeting referred to in clause 2 (1) of Schedule 2 to the Act must be convened and held in accordance with the provisions of Divisions 1 and 2 of Part 2 of that Schedule.

29 Forms and certificates

- (1) A certificate given by a local council under section 56 (4) of the Act must be in or to the effect of Form 1 in Schedule 7.
- (2) A certificate given by an owners corporation under section 109 of the Act must be in or to the effect of Form 2 in Schedule 7.
- (3) For the purposes of clause 11 (1) of Schedule 2 to the Act, an instrument appointing a proxy must be in or to the effect of Form 3 in Schedule 7.

30 Monetary limit on exercise of priority vote

For the purposes of clause 7 (1) of Schedule 2 to the Act, the prescribed amount is the amount of \$200 multiplied by the number of lots in the strata scheme concerned.

31 Savings and transitional provisions

Schedule 8 has effect.

Strata Schemes Management Regulation 2005

Schedule 1 Model by-laws for residential schemes

Schedule 1 Model by-laws for residential schemes

(Clause 27)

1 Noise

An owner or occupier of a lot must not create any noise on a lot or the common property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

2 Vehicles

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.

3 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

4 Damage to lawns and plants on common property

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

5 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under clause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or

Strata Schemes Management Regulation 2005

Model by-laws for residential schemes

Schedule 1

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- (c) any structure or device to prevent harm to children, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62 of the Act, the owner of a lot must:
- (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in clause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in clause (3) that forms part of the common property and that services the lot.

6 Behaviour of owners and occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

7 Children playing on common property in building

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to play on common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain on common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

8 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

9 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

Strata Schemes Management Regulation 2005

Schedule 1 Model by-laws for residential schemes

10 Drying of laundry items

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

11 Cleaning windows and doors

- (1) Except in the circumstances referred to in clause (2), an owner or occupier of a lot is responsible for cleaning all interior and exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property.
- (2) The owners corporation is responsible for cleaning regularly all exterior surfaces of glass in windows and doors that cannot be accessed by the owner or occupier of the lot safely or at all.

12 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

13 Changes to floor coverings and surfaces

- (1) An owner or occupier of a lot must notify the owners corporation at least 21 days before changing any of the floor coverings or surfaces of the lot if the change is likely to result in an increase in noise transmitted from that lot to any other lot. The notice must specify the type of the proposed floor covering or surface.
- (2) This by-law does not affect any requirement under any law to obtain a consent to, approval for or any other authorisation for the changing of the floor covering or surface concerned.

14 Floor coverings

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.

Strata Schemes Management Regulation 2005

Model by-laws for residential schemes

Schedule 1

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- (2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

15 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
- (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
 - (b) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and

Strata Schemes Management Regulation 2005

Schedule 1 Model by-laws for residential schemes

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- (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
 - (3) An owner or occupier of a lot must:
 - (a) comply with the local council's requirements for the storage, handling and collection of garbage, waste and recyclable material, and
 - (b) notify the local council of any loss of, or damage to, receptacles provided by the local council for garbage, recyclable material or waste.
 - (4) The owners corporation may post signs on the common property with instructions on the handling of garbage, waste and recyclable material that are consistent with the local council's requirements.

16 Keeping of animals

Note. Select option A, B or C. If no option is selected, option A will apply.

Option A

- (1) Subject to section 49 (4) of the Act, an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.
- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

Option B

- (1) Subject to section 49 (4) of the Act, an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog or a small caged bird, or fish kept in a secure aquarium on the lot) on the lot or the common property.
- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

Strata Schemes Management Regulation 2005

Model by-laws for residential schemes

Schedule 1

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- (3) If an owner or occupier of a lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:
- (a) notify the owners corporation that the animal is being kept on the lot, and
 - (b) keep the animal within the lot, and
 - (c) carry the animal when it is on the common property, and
 - (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

Option C

Subject to section 49 (4) of the Act, an owner or occupier of a residential lot must not keep any animal on the lot or the common property.

17 Appearance of lot

- (1) The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 10.

18 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

19 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) window cleaning,
 - (b) garbage disposal and recycling services,

Strata Schemes Management Regulation 2005

Schedule 1 Model by-laws for residential schemes

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- (c) electricity, water or gas supply,
 - (d) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in clause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note. Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

20 Compliance with planning and other requirements

- (1) The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.
- (2) The owner or occupier of a lot must ensure that the lot is not occupied by more persons than are allowed by law to occupy the lot.

Strata Schemes Management Regulation 2005

Model by-laws for retirement villages schemes

Schedule 2

Schedule 2 Model by-laws for retirement villages schemes

(Clause 27)

1 Noise

An owner or occupier of a lot must not create any noise on a lot or the common property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

2 Vehicles

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.

3 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

4 Damage to lawns and plants on common property

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

5 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under clause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or

Strata Schemes Management Regulation 2005

Schedule 2 Model by-laws for retirement villages schemes

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- (b) any health or medical equipment that is necessary to preserve the health or well-being of the occupier of the lot, or
 - (c) any screen or other device to prevent entry of animals or insects on the lot, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, equipment, screen or other device must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62 of the Act, the owner of a lot must:
- (a) maintain and keep in a state of good and serviceable repair any installation referred to in clause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, equipment, screen or other device referred to in clause (3) that forms part of the common property and that services the lot.

6 Behaviour of owners and occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

7 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

8 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

9 Drying of laundry items

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be

Strata Schemes Management Regulation 2005

Model by-laws for retirement villages schemes

Schedule 2

visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

10 Cleaning windows and doors

- (1) Except in the circumstances referred to in clause (2), an owner or occupier of a lot is responsible for cleaning all interior and exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property.
- (2) The owners corporation is responsible for cleaning regularly all exterior surfaces of glass in windows and doors that cannot be accessed by the owner or occupier of the lot safely or at all.

11 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

12 Changes to floor coverings and surfaces

- (1) An owner or occupier of a lot must notify the owners corporation at least 21 days before changing any of the floor coverings or surfaces of the lot if the change is likely to result in an increase in noise transmitted from that lot to any other lot. The notice must specify the type of the proposed floor covering or surface.
- (2) This by-law does not affect any requirement under any law to obtain a consent to, approval for or any other authorisation for the changing of the floor covering or surface concerned.

13 Floor coverings

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.
- (2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

Strata Schemes Management Regulation 2005

Schedule 2 Model by-laws for retirement villages schemes

14 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
 - (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
 - (b) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
 - (a) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

Strata Schemes Management Regulation 2005

Model by-laws for retirement villages schemes

Schedule 2

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- (3) An owner or occupier of a lot must:
- (a) comply with the local council's requirements for the storage, handling and collection of garbage, waste and recyclable material, and
 - (b) notify the local council of any loss of, or damage to, receptacles provided by the local council for garbage, recyclable material or waste.
- (4) The owners corporation may post signs on the common property with instructions on the handling of garbage, waste and recyclable material that are consistent with the local council's requirements.

15 Keeping of animals

Note. Select option A, B or C. If no option is selected, option A will apply.

Option A

- (1) Subject to section 49 (4) of the Act, an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.
- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

Option B

- (1) Subject to section 49 (4) of the Act, an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog or a small caged bird, or fish kept in a secure aquarium on the lot) on the lot or the common property.
- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.
- (3) If an owner or occupier of a lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:
 - (a) notify the owners corporation that the animal is being kept on the lot, and
 - (b) keep the animal within the lot, and

Strata Schemes Management Regulation 2005

Schedule 2 Model by-laws for retirement villages schemes

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- (c) carry the animal when it is on the common property, and
 - (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

Option C

Subject to section 49 (4) of the Act, the owner or occupier of a residential lot must not keep any animal on the lot or the common property.

16 Appearance of lot

- (1) The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 9.

17 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

18 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) medical and nursing services,
 - (b) emergency response services,
 - (c) meals,
 - (d) domestic services,
 - (e) window cleaning,
 - (f) transportation,
 - (g) garbage disposal and recycling services,
 - (h) electricity, water or gas supply,

Strata Schemes Management Regulation 2005

Model by-laws for retirement villages schemes

Schedule 2

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- (i) telecommunication services (for example, cable television).
 - (2) If the owners corporation makes a resolution referred to in clause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note. Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

19 Compliance with planning and other requirements

- (1) The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.
- (2) The owner or occupier of a lot must ensure that the lot is not occupied by more persons than are allowed by law to occupy the lot.

Strata Schemes Management Regulation 2005

Schedule 3 Model by-laws for industrial schemes

Schedule 3 Model by-laws for industrial schemes

(Clause 27)

1 Vehicles

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

2 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

3 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under clause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any sign to advertise the activities of the occupier of the lot, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or sign must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.

Strata Schemes Management Regulation 2005

Model by-laws for industrial schemes

Schedule 3

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- (5) Despite section 62 of the Act, the owner of a lot must:
- (a) maintain and keep in a state of good and serviceable repair any installation referred to in clause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or sign referred to in clause (3) that forms part of the common property and that services the lot.

4 Children on common property

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to remain on common property, unless accompanied by an adult exercising effective control.

5 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

6 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the written approval of the owners corporation.

7 Cleaning windows and doors

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

8 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
- (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and

Strata Schemes Management Regulation 2005

Schedule 3 Model by-laws for industrial schemes

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- (b) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (3) An owner or occupier of a lot must:
- (a) comply with the local council's requirements for the storage, handling and collection of garbage, waste and recyclable material, and
 - (b) notify the local council of any loss of, or damage to, receptacles provided by the local council for garbage, recyclable material or waste.

Strata Schemes Management Regulation 2005

Model by-laws for industrial schemes

Schedule 3

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- (4) The owners corporation may post signs on the common property with instructions on the handling of garbage, waste and recyclable material that are consistent with the local council's requirements.
 - (5) This by-law does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

9 Appearance of lot

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

10 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot).

11 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

12 Prevention of hazards

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

13 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) security services,
 - (b) promotional services,
 - (c) cleaning,

Strata Schemes Management Regulation 2005

Schedule 3 Model by-laws for industrial schemes

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- (d) garbage disposal and recycling services,
 - (e) electricity, water or gas supply,
 - (f) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in clause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note. Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

14 Compliance with planning and other requirements

The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.

Strata Schemes Management Regulation 2005

Model by-laws for hotel/resort schemes

Schedule 4

Schedule 4 Model by-laws for hotel/resort schemes

(Clause 27)

1 Vehicles

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

2 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

3 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under clause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any structure or device to prevent harm to children, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.
- (5) Despite section 62 of the Act, the owner of a lot must:

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Schedule 4 Model by-laws for hotel/resort schemes

- (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in clause (3) that forms part of the common property and that services the lot, and
- (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in clause (3) that forms part of the common property and that services the lot.

4 Behaviour of owners and occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

5 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

6 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

7 Cleaning windows and doors

The owners corporation must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lots, whether common property or part of a lot.

8 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

9 Keeping of animals

Subject to section 49 (4) of the Act, an owner or occupier of a lot must not keep any animal on the lot or the common property.

Strata Schemes Management Regulation 2005

Model by-laws for hotel/resort schemes

Schedule 4

10 Appearance of lot

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

11 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

12 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:

- (a) electricity, water or gas supply,
- (b) telecommunication services (for example, cable television).

- (2) If the owners corporation makes a resolution referred to in clause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note. Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

13 Compliance with planning and other requirements

The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.

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Schedule 5 Model by-laws for commercial/retail schemes

Schedule 5 Model by-laws for commercial/retail schemes

(Clause 27)

1 Vehicles

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

2 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis (for example a temporary display).

3 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the written approval of the owners corporation.
- (2) An approval given by the owners corporation under clause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any sign to advertise the activities of the occupier of the lot if the owners corporation has specified locations for such signs and that sign is installed in the specified locations, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.

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Model by-laws for commercial/retail schemes

Schedule 5

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- (4) Any such locking or safety device, screen, other device or sign must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.
- (5) Despite section 62 of the Act, the owner of a lot must:
- (a) maintain and keep in a state of good and serviceable repair any installation referred to in clause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or sign referred to in clause (3) that forms part of the common property and that services the lot.

4 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier (including all customers and staff) do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

5 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

6 Cleaning windows and doors

The owners corporation must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lots, whether a part of a lot or common property.

7 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
- (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
 - (b) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely

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Schedule 5 Model by-laws for commercial/retail schemes

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- drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
- (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (3) An owner or occupier of a lot must:
- (a) comply with the local council's requirements for the storage, handling and collection of garbage, waste and recyclable material, and
 - (b) notify the local council of any loss of, or damage to, receptacles provided by the local council for garbage, recyclable material or waste.
- (4) The owners corporation may post signs on the common property with instructions on the handling of garbage, waste and recyclable material that are consistent with the local council's requirements.

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Model by-laws for commercial/retail schemes

Schedule 5

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- (5) This by-law does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

8 Appearance of lot

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

9 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot).

10 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

11 Prevention of hazards

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

12 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
- (a) security services,
 - (b) promotional services,
 - (c) advertising,
 - (d) cleaning,
 - (e) garbage disposal and recycling services,
 - (f) electricity, water or gas supply,

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Schedule 5 Model by-laws for commercial/retail schemes

(g) telecommunication services (for example, cable television).

- (2) If the owners corporation makes a resolution referred to in clause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note. Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

13 Controls on hours of operation and use of facilities

- (1) The owners corporation may, by special resolution, make any of the following determinations if it considers the determination is appropriate for the control, management, administration, use or enjoyment of the lots or the lots and common property of the strata scheme:
- (a) that commercial or business activities may be conducted on a lot or common property only during certain times,
 - (b) that facilities situated on the common property may be used only during certain times or on certain conditions.
- (2) An owner or occupier of a lot must comply with a determination referred to in clause (1).

14 Compliance with planning and other requirements

The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.

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Model by-laws for mixed use schemes

Schedule 6

Schedule 6 Model by-laws for mixed use schemes

(Clause 27)

1 Noise

An owner or occupier of a lot must not create any noise on a lot or the property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

2 Vehicles

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

3 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

4 Damage to lawns and plants on common property

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

5 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the written approval of the owners corporation.
- (2) An approval given by the owners corporation under clause (1) cannot authorise any additions to the common property.

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Schedule 6 Model by-laws for mixed use schemes

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- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
- (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any structure or device to prevent harm to children, or
 - (d) any sign to advertise the activities of the occupier of the lot if the owners corporation has specified locations for such signs and that sign is installed in the specified locations, or
 - (e) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device, structure or sign must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62 of the Act, the owner of a lot must:
- (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in clause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device, structure or sign referred to in clause (3) that forms part of the common property and that services the lot.

6 Behaviour of owners and occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

7 Children playing on common property in building

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to play on common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain on common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

Strata Schemes Management Regulation 2005

Model by-laws for mixed use schemes

Schedule 6

8 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

9 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

10 Drying of laundry items

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

11 Cleaning windows and doors

- (1) Except in the circumstances referred to in clause (2), an owner or occupier of a lot is responsible for cleaning all interior and exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property.
- (2) The owners corporation is responsible for cleaning regularly all exterior surfaces of glass in windows and doors that cannot be accessed by the owner or occupier of the lot safely or at all.

12 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

13 Changes to floor coverings

- (1) An owner or occupier of a lot must notify the owners corporation at least 21 days before changing any of the floor coverings or surfaces of the lot if the change is likely to result in an increase in noise transmitted from

Strata Schemes Management Regulation 2005

Schedule 6 Model by-laws for mixed use schemes

that lot to any other lot. The notice must specify the type of the proposed floor covering or surface.

- (2) This by-law does not affect any requirement under any law to obtain a consent to, approval for or any other authorisation for the changing of the floor covering or surface concerned.

14 Floor coverings

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.
- (2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

15 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
- (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
 - (b) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

Strata Schemes Management Regulation 2005

Model by-laws for mixed use schemes

Schedule 6

-
- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before garbage, recyclable material or waste is placed in the receptacles it is, in the case of garbage, securely wrapped or, in the case of tins or other containers, completely drained or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (3) An owner or occupier of a lot:
- (a) must comply with the local council's requirements for the storage, handling and collection of garbage, waste and recyclable material, and
 - (b) must notify the local council of any loss of, or damage to, receptacles provided by the local council for garbage, recyclable material or waste, and
 - (c) if the lot is used for commercial purposes, must not deposit any item of commercial waste in receptacles provided solely for the collection of residential garbage, waste or recyclable material.
- (4) The owners corporation may post signs on the common property with instructions on the handling of garbage, waste and recyclable material that are consistent with the local council's requirements.
- (5) This by-law does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

16 Keeping of animals

Note. Select option A, B or C. If no option is selected, option A will apply.

Option A

- (1) Subject to section 49 (4) of the Act, an owner or occupier of a residential lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.

Strata Schemes Management Regulation 2005

Schedule 6 Model by-laws for mixed use schemes

- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a residential lot or the common property.

Option B

- (1) Subject to section 49 (4) of the Act, an owner or occupier of a residential lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog or a small caged bird, or fish kept in a secure aquarium on the lot) on the lot or the common property.
- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a residential lot or the common property.
- (3) If an owner or occupier of a residential lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:
- (a) notify the owners corporation that the animal is being kept on the lot, and
 - (b) keep the animal within the lot, and
 - (c) carry the animal when it is on the common property, and
 - (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

Option C

Subject to section 49 (4) of the Act, an owner or occupier of a residential lot must not keep any animal on the lot or the common property.

17 Appearance of lot

- (1) The owner or occupier of a lot must not, except with the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 10.

Strata Schemes Management Regulation 2005

Model by-laws for mixed use schemes

Schedule 6

18 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

19 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

20 Prevention of hazards

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

21 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) security services,
 - (b) promotional services,
 - (c) advertising,
 - (d) commercial cleaning,
 - (e) domestic services,
 - (f) garbage disposal and recycling services,
 - (g) electricity, water or gas supply,
 - (h) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in clause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Strata Schemes Management Regulation 2005

Schedule 6 Model by-laws for mixed use schemes

Note. Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

22 Controls on hours of operation and use of facilities

- (1) The owners corporation may, by special resolution, make any of the following determinations if it considers the determination is appropriate for the control, management, administration, use or enjoyment of the lots or the lots and common property of the strata scheme:
 - (a) that commercial or business activities may be conducted on a lot or common property only during certain times,
 - (b) that facilities situated on the common property may be used only during certain times or on certain conditions.
- (2) An owner or occupier of a lot must comply with a determination referred to in clause (1).

23 Compliance with planning and other requirements

- (1) The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.
- (2) The owner or occupier of a lot used for residential purpose must ensure that the lot is not occupied by more persons than are allowed by law to occupy the lot.

Strata Schemes Management Regulation 2005

Forms

Schedule 7

Schedule 7 Forms

Form 1 Certificate of Council’s approval of change of by-laws

(Clause 29 (1))

Strata Schemes Management Act 1996

I certify that the

Council has approved the change of by-laws set out in the Schedule to this certificate.

Dated:

Strata Plan No:

.....
General Manager

Schedule

.....
.....
.....

(Insert details of the changes approved by the Council)

Form 2 Certificate under section 109 of the Act

(Clause 29 (2))

Strata Schemes Management Act 1996

Date of certificate 20.....

Lot in respect of which certificate issued Strata Plan No

Person requesting certificate
(owner/mortgagee/covenant chargee of lot/authorised person)

If an authorised person, authorised by
(owner/mortgagee/covenant chargee of lot)

The owners corporation of Strata Plan No certifies the following:

1 Administrative fund—contributions payable by regular periodic instalments or lump sum (section 76 (1) of the Act)

Total amount last determined with respect to the lot

Number of instalments payable (if contribution payable by instalments)

Amount of each instalment

Dates on which each instalment is due:

Amount (if any) outstanding

Strata Schemes Management Regulation 2005

Schedule 7 Forms

-
- Amount (if any) in credit
 - Discount (if any) applicable for early payment
 - 2 Sinking fund—payments payable by regular periodic instalments or lump sum (section 76 (1) of the Act)**
 - Total amount last determined with respect to the lot
 - Date on which determination made
 - Number of instalments payable (if contribution payable by instalments)
 - Amount of each instalment
 - Dates on which each instalment is due
 - Amount (if any) outstanding
 - Amount (if any) in credit
 - Discount (if any) applicable for early payment
 - 3 Special contributions to the administrative fund (section 76 (4) of the Act)**
 - Amount of any levy payable under section 76 (4) of the Act with respect to the lot ..
 - Date on which determination made
 - Number of instalments payable (if contribution payable by instalments)
 - Amount of each instalment
 - Dates on which each instalment is due
 - Amount (if any) outstanding
 - Amount (if any) in credit
 - Brief statement as to the purpose for which the contribution was levied
 - 4 Money unpaid under by-law conferring a right or privilege (section 53 of the Act)**
 - Amount payable under a by-law referred to in section 53 of the Act
 - Date when amount due
 - 5 Contributions towards costs of proceedings (section 229 of the Act)**
 - Amount of any levy payable under section 229 of the Act with respect to the lot
 - Date on which determination made
 - Number of instalments payable (if contribution payable by instalments)
 - Amount of each instalment
 - Dates on which each instalment is due:
 - Amount (if any) outstanding
 - Amount (if any) in credit

Strata Schemes Management Regulation 2005

Forms

Schedule 7

Brief statement as to the purpose for which the contribution was levied

6 Amounts recoverable in relation to work carried out by owners corporation

Amount (if any) recoverable under section 63 of the Act

7 Rate of interest payable on contributions

Rate of interest payable under section 79 of the Act on contributions per cent.

Amount of interest payable in relation to outstanding contributions

8 Amount of unpaid pecuniary penalties

Amount of any unpaid pecuniary penalty that is a charge on the lot by reason of section 206 of the Act

9 Particulars on strata roll for lot to which certificate relates

Name of owner

Address for service of notices on owner

Name and address for service of notices of each mortgagee, covenant chargee or other person who has given notice to owners corporation under section 118 of the Act:

Name Address Capacity

.....
.....
.....

10 Managing agent and caretaker

Name of managing agent (if any) appointed under section 26 of the Act

Address of managing agent

Name of caretaker (if any) within the meaning of section 40A of the Act

Address of caretaker

11 Members of executive committee

Name and address of each member of executive committee:

Name Address

.....
.....
.....

Strata Schemes Management Regulation 2005

Schedule 7 Forms

12 By-laws

Particulars of any by-laws made by the owners corporation within the 2-year period before the date of this certificate that have not been lodged at the office of the Registrar-General as at that date:

.....

13 Insurance policies

Particulars of all insurance policies held by owners corporation:

| Type of policy | Name of insurer | Policy No | Sum insured | Date due | Date when last premium paid | Amount of last premium |
|----------------|-----------------|-----------|-------------|----------|-----------------------------|------------------------|
|----------------|-----------------|-----------|-------------|----------|-----------------------------|------------------------|

Name of insurance broker for each policy (if relevant)

This part to be completed in addition if strata scheme is also part of community scheme

14 Contributions payable to administrative fund of community association

Total amount last determined with respect to the lot

Number of instalments payable (if contribution payable by instalments)

Amount of each instalment

Dates on which each instalment is due

Amount (if any) outstanding

Amount (if any) in credit

Discount (if any) applicable for early payment

15 Contributions payable to sinking fund of community association

Total amount last determined with respect to the lot

Date on which determination made

Number of instalments payable (if contribution payable by instalments)

Amount of each instalment

Dates on which each instalment is due

Amount (if any) outstanding

Amount (if any) in credit

Discount (if any) applicable for early payment

16 Contributions payable to administrative fund of precinct association

Total amount last determined with respect to the lot

Number of instalments payable (if contribution payable by instalments)

Amount of each instalment

Strata Schemes Management Regulation 2005

Forms

Schedule 7

Dates on which each instalment is due

 Amount (if any) outstanding
 Amount (if any) in credit
 Discount (if any) applicable for early payment

17 Contributions payable to sinking fund of precinct association

Total amount last determined with respect to the lot

 Number of instalments payable (if contribution payable by instalments)
 Amount of each instalment
 Dates on which each instalment is due:

 Amount (if any) outstanding
 Amount (if any) in credit
 Discount (if any) applicable for early payment

THE COMMON SEAL OF THE OWNERS—STRATA PLAN No
 was hereunto affixed on
 in the presence of

being the person(s) authorised by section 238 of the *Strata Schemes Management Act 1996* to attest the affixing of the seal.

Note. Section 109 (8) of the Act provides:

(8) Certificate is evidence of matters stated in it

A certificate given under this section is conclusive evidence, as at the date of the certificate, of the matters stated in it in favour of a person (whether or not the applicant for the certificate or a person referred to in the certificate) taking for valuable consideration:

- (a) an estate or interest in a lot in a freehold strata scheme to which the certificate relates, or
- (b) an estate or interest in a lease of a lot in a leasehold strata scheme to which the certificate relates.

Form 3 Proxy appointment

(Clause 29 (3))

Strata Schemes Management Act 1996

Date
 I/We
 the owners of lot
 in Strata Plan No
 appoint
 of

Strata Schemes Management Regulation 2005

Schedule 7 Forms

as my/our proxy for the purposes of meetings of the owners corporation (including adjournments of meetings).

Period or number of meetings for which appointment of proxy has effect *1 meeting/*..... meetings/*1 month/*..... months/*12 months or 2 consecutive annual general meetings

*Tick or tick and complete whichever applies

(Note. The appointment cannot have effect for more than 12 months or 2 consecutive annual general meetings, whichever is the greater. If no selection is made by the person giving the proxy, the proxy is effective only for one meeting.)

*1 This form authorises the proxy to vote on my/our behalf on all matters.

OR

*2 This form authorises the proxy to vote on my/our behalf on the following matters only:

.....
.....
.....

[Specify the matters and any limitations on the manner in which you want the proxy to vote.]

*Delete paragraph 1 or 2, whichever does not apply.

*3 If a vote is taken on whether (the strata managing agent) should be appointed or remain in office or whether another managing agent is to be appointed, I/we want the proxy to vote as follows:

.....
.....
.....

*Delete paragraph 3 if proxy is not authorised to vote on this matter. For examples, read note 1 below.

Signature of owner/s

Signature of proxy

Notes

- 1 A proxy is not authorised to vote on a matter: (a) if the person who appointed the proxy is present at the relevant meeting and personally votes on the matter, or (b) so as to confer a pecuniary or other material benefit on the proxy, if the proxy is a strata managing agent, caretaker or on-site residential property manager.
2 This form is ineffective unless it contains the date on which it was made and it is given to the secretary of the owners corporation at least 24 hours before the first meeting in relation to which it is to operate (in the case of a large strata scheme) or at or before the first meeting in relation to which it is to operate (in any other case).
3 This form will be revoked by a later proxy appointment form delivered to the secretary of the owners corporation in the manner described in the preceding paragraph.

Strata Schemes Management Regulation 2005

Savings and transitional provisions

Schedule 8

Schedule 8 Savings and transitional provisions

(Clause 31)

1 Savings and transitional provisions consequent on enactment of Strata Schemes Management Act 1996

- (1) This clause applies to an owners corporation in existence at 1 July 1997.
- (2) The seal of an owners corporation immediately before 1 July 1997 may continue to be used as its seal for the purposes of the *Strata Schemes Management Act 1996* or for any other purpose, unless replaced by the owners corporation.

2 Savings and transitional provisions consequent on enactment of Strata Schemes Management Amendment Act 2004

- (1) Clause 11 (3) of Schedule 2 to the Act as in force immediately before 7 February 2005 (rather than as substituted by the *Strata Schemes Management Amendment Act 2004*) applies to a proxy if notice of the first meeting in relation to which the proxy is to operate was given before 7 February 2005.
- (2) Clause 32 (2) of Schedule 2 to the Act as in force immediately before 7 February 2005 (rather than as amended by the *Strata Schemes Management Amendment Act 2004*) applies to a general meeting of an owners corporation held on or before 14 February 2005.

Note. The *Strata Schemes Management Amendment Act 2004* commenced on 7 February 2005.

3 Savings and transitional provisions consequent on the making of this Regulation

Any act, matter or thing that, immediately before the repeal of the *Strata Schemes Management Regulation 1997*, had effect under that regulation is taken to have effect under this Regulation.



New South Wales

Timber Marketing Regulation 2005

under the

Timber Marketing Act 1977

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Timber Marketing Act 1977*.

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

Explanatory note

This Regulation replaces, without any substantial changes other than the omission of certain forms, the updating of references to certain Australian Standards and a slight change to the test set out in clause 4, the *Timber Marketing Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The omitted forms were the prescribed forms of applications for approval under the *Timber Marketing Act 1977 (the Act)* of preservative treatments of timber and for the registration of brands to be used to brand timber, and for the renewal, variation and transfer of such approvals and registrations. The Act was amended by the *Statute Law (Miscellaneous Provisions) Act 2005* to provide that such applications are to be made in a form approved by the Director-General of the Department of Primary Industries, rather than in a prescribed form. However, the form of a Certificate of Authority under section 27 of the Act (which shows that the authorised person may carry out inspections and tests for the purposes of the Act) remains a prescribed form.

The new Regulation makes provision with respect to the following matters:

- (a) tests relating to lyctid susceptible sapwood (clause 4 and Schedule 1),
- (b) classes of articles that may be sold despite containing lyctid susceptible sapwood (clause 5),
- (c) a form of warning for the purposes of section 6 of the *Timber Marketing Act 1977*, which prohibits the sale of framing timber containing more than a certain percentage of lyctid susceptible sapwood (clause 6),
- (d) classes of treated timber that need not be individually branded (clause 7),
- (e) standards as to the moisture content of certain timber (clause 8 and Schedule 2),

Timber Marketing Regulation 2005

Explanatory note

- (f) classes of timber for the purposes of section 12A of the Act, which prohibits certain timber from being sold unless it complies with the prescribed moisture content standards or is described as “unseasoned” (clause 9 and Schedule 2),
- (g) articles and classes of articles for the purposes of sections 13 and 13A of the Act, which prohibit the use of certain classes of timber in the manufacture of furniture and prescribed articles and classes of articles (clause 10),
- (h) standards for the moisture content of timber that is permitted to be used in the manufacture of portable ladders, stepladders, trestles and other articles (clause 11),
- (i) the manner for determining the moisture content of certain timber (clause 12),
- (j) classes of treated timber that need not be individually branded (clause 13),
- (k) requiring the Forestry Commission to keep records of approvals of preservative treatment and brands registered in respect of those approvals (clause 14),
- (l) administrative requirements relating to approvals of preservative treatments and the registration of brands relating to those approvals (clauses 15–18),
- (m) various matters of an administrative or machinery nature (Parts 1 and 5 and Schedule 3).

The Regulation is made under the *Timber Marketing Act 1977*, including section 34 (the general regulation-making power) and sections 4, 6, 8, 12, 12A, 13, 13A and 14.

The Regulation refers to various Australian and Australian/New Zealand Standards for the purpose of prescribing standards for the moisture content of timber and the manner of determining that content (clauses 8, 11 and 12 and Schedule 2).

Timber Marketing Regulation 2005

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Timber Marketing Regulation 2005

Clause 1

Preliminary

Part 1

Timber Marketing Regulation 2005

under the

Timber Marketing Act 1977

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Timber Marketing Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Timber Marketing Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

approval means an approval of a preservative treatment given under section 20 (1) (a) of the Act.

Australian Standard means a Standard issued by Standards Australia.

the Act means the *Timber Marketing Act 1977*.

(2) A reference in any provision of this Regulation to the abbreviation "AS" or "AS/NZS" followed by a group of numerals or letters, or numerals and letters, is a reference to:

(a) the Australian Standard indicated by that group, and

(b) all additions and amendments (if any) to that Australian Standard issued before the date on which that provision takes effect.

Note. AS 2688 and AS 2689, which are referred to in this Regulation, are listed as "obsolescent" by Standards Australia, and AS Z12 (which is also referred to) has been withdrawn. However, none of those Standards has yet been superseded, and they are available from Standards Australia.

(3) When a standard, or a clause of a standard, specified in clause 11 or Column 3 of Schedule 2 is applied by this Regulation, a reference in the standard or clause to a time or date at which compliance with the specification as to moisture content is recommended or required is to be disregarded.

Clause 3 Timber Marketing Regulation 2005

Part 1 Preliminary

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

Timber Marketing Regulation 2005

Clause 4

Lyctid susceptible sapwood

Part 2

Part 2 Lyctid susceptible sapwood

4 Prescribed test and result and prescribed list of species

- (1) For the purposes of paragraph (b) of the definition of *lyctid susceptible sapwood* in section 4 (1) of the Act, the following test is a prescribed test:

Step 1 Preparation of reagent:

Dissolve 14 grams of potassium iodide in 20 to 30 millilitres of distilled water. Into this solution dissolve 7 grams of iodine crystals. Make up to 1 litre with distilled water and store in a dark bottle.

Step 2 Application:

Apply the solution evenly over a freshly-split radial of the timber to be tested. Ensure that the solution does not come into contact with any metal before the test is started.

- (2) For the purposes of paragraph (b) of the definition of *lyctid susceptible sapwood* in section 4 (1) of the Act, the following result is prescribed for the test referred to in subclause (1):

The appearance of blue or blue-black granules immediately after the application of the solution.

- (3) For the purposes of paragraph (d) of the definition of *lyctid susceptible sapwood* in section 4 (1) of the Act, the species of trees listed in Schedule 1 are prescribed species.

5 Prescribed classes of articles that may be sold having lyctid susceptible sapwood

For the purposes of the definition of *article* in section 4 (1) of the Act, the following are prescribed as classes of articles:

- (a) articles intended or designed to be used permanently in fixed contact with the ground or articles intended or designed to be permanently exposed to weathering, excluding:
- (i) furniture, and
 - (ii) ladders, and
 - (iii) articles intended or designed to be used for the purpose of building construction, such as scaffold planks, scaffolding and similar articles,
- (b) articles intended or designed to be used in the preparation of food or in direct contact with prepared food, such as bread boards and butcher's blocks,

Clause 6 Timber Marketing Regulation 2005

Part 2 Lyctid susceptible sapwood

- (c) articles intended or designed to be destroyed through use or discarded or abandoned after use, such as matches, toothpicks and packing cases.

6 Form of warning to be given for purposes of section 6 (2) of Act

- (1) For the purposes of section 6 (2) of the Act, the prescribed warning is as follows:

Warning as to lyctid susceptibility

(Section 6 (2) of the *Timber Marketing Act 1977*)

This framing timber may have lyctid susceptible sapwood comprising more than 25 per cent of the perimeter of any cross section or more than 50 per cent of any face or edge at any cross section. If attacked by lyctids, it may become so weakened as no longer to possess the normal strength properties of the timber.

- (2) For the purposes of section 6 (2) of the Act, the prescribed manner of giving the prescribed warning is:
- (a) in the case of timber sold in the presence of the purchaser or the purchaser's agent—by handing to the purchaser or the agent, at or before the time of sale, an invoice, a sales docket or some other document on which is legibly written the prescribed warning, with the first 5 words being in letters not less than 5 millimetres high and the remaining words being in letters not less than 2 millimetres high, or
- (b) in the case of timber sold in the presence of the purchaser or the purchaser's agent and described in an advertisement, or a notice, that is attached to the timber or conspicuously displayed adjacent to the timber—by including the prescribed warning in a prominent place in the advertisement or notice, or
- (c) in the case of timber sold otherwise than in the presence of the purchaser or the purchaser's agent:
- (i) by handing to the purchaser or the agent at the time of delivery of the timber, or
- (ii) by forwarding to the purchaser before the time of delivery and in such a way as should, in the normal course of events, result in the purchaser receiving the instrument at or before the time of delivery,
- a document on which the prescribed warning is legibly written.

Timber Marketing Regulation 2005

Clause 7

Lyctid susceptible sapwood

Part 2

7 Prescribed classes of treated timber that need not be individually branded

For the purposes of section 8 (2) of the Act, the following are prescribed classes of timber:

- (a) fence palings, fence battens and fence droppers,
- (b) veneers,
- (c) timber less than 1,500 square millimetres in cross section area (except light decking),
- (d) timber less than 15 millimetres in thickness (except light decking),
- (e) timber less than 500 millimetres in length.

Clause 8 Timber Marketing Regulation 2005

Part 3 Moisture content of timber

Part 3 Moisture content of timber

8 Prescribed standards for moisture content of timber and for determining that content

If the timber referred to in a provision of the Act specified in Column 2 of Schedule 2 is of a class specified opposite that provision in Column 1 of that Schedule, then, for the purposes of that provision:

- (a) the prescribed standard for the moisture content of that timber is that set out in the clause of an Australian Standard specified in Column 3 of that Schedule opposite the reference to that class of timber, and
- (b) the prescribed manner for determining that moisture content is that set out in that clause.

9 Prescribed classes of timber to be dried or seasoned or described as unseasoned

For the purposes of section 12A of the Act, the following are prescribed classes of timber:

- (a) all timber of a class specified in Column 1 of Schedule 2,
- (b) lining boards,
- (c) cladding,
- (d) flooring timber,
- (e) moulding timbers,
- (f) joinery timbers,
- (g) timber used in the manufacture of indoor furniture,
- (h) fascia boards,
- (i) barge boards,
- (j) light decking.

10 Prescribed articles and classes of articles for the purposes of sections 13 (1) and 13A (1) of Act

- (1) For the purposes of sections 13 (1) and 13A (1) of the Act, the following articles are prescribed:
 - (a) portable ladders, stepladders and trestles,
 - (b) scaffold planks,
 - (c) frames and sashes for windows,
 - (d) timber doors and their hanging frames,

Timber Marketing Regulation 2005

Clause 11

Moisture content of timber

Part 3

- (e) handles for tools,
 - (f) base blocks for the mounting of electrical accessories.
- (2) For the purposes of sections 13 (1) and 13A (1) of the Act, the following classes of articles are prescribed:
- (a) gymnasium equipment,
 - (b) marine craft.

11 Prescribed standard for timber used in manufacture and sale of prescribed articles

For the purposes of sections 13 (1) (a) and 13A (1) (b) (i) of the Act, the prescribed standard for the moisture content of timber or a class of timber is as follows:

- (a) in the case of timber used in the manufacture of portable ladders, stepladders and trestles—the moisture content specified in AS 1892.2—1992,
- (b) in the case of timber used in the manufacture of scaffold planks—the moisture content specified in AS 1577—1993,
- (c) in the case of timber used in the manufacture of frames and sashes for windows—the moisture content specified in AS 2047—1999,
- (d) in the case of timber used in the manufacture of timber doors—the moisture content specified in AS 2688—1984,
- (e) in the case of timber used in the manufacture of timber doors and their hanging frames—the moisture content specified in AS 2689—1984,
- (f) in the case of timber used in the manufacture of handles for tools—the moisture content specified in AS 1729—1994,
- (g) in the case of timber used in the manufacture of gymnasium equipment—the moisture content specified in AS Z12,
- (h) in the case of timber used in the manufacture of marine craft—the moisture content specified in AS/NZS 2272—1996.

12 Prescribed manner for determining moisture content of certain timber

For the purposes of sections 12 (c), 12 (d) (ii), 12A (a), 12A (b) (ii), 13 (1) (b), 13A (1) (a) and 13A (b) (ii) of the Act, the prescribed manner for determining the moisture content of timber referred to in those provisions is as follows:

- (a) in the case of veneer, plywood or blockboard—the oven-drying method for determining moisture content specified in AS/NZS 2098.1—1996,

Clause 12 Timber Marketing Regulation 2005

Part 3 Moisture content of timber

- (b) in the case of particle board—the method for determining moisture content specified in AS 1859.1—2004,
- (c) in all other cases—the oven-drying method for determining moisture content specified in AS 1080.1—1997.

Timber Marketing Regulation 2005

Clause 13

Preservative treatment of timber

Part 4

Part 4 Preservative treatment of timber

13 Prescribed classes of treated timber that need not be individually branded

For the purposes of sections 16 (2) and 17 (2) of the Act, the following are prescribed classes of timber:

- (a) fence palings, fence battens and fence droppers,
- (b) veneers,
- (c) timber less than 1,500 square millimetres in cross section area (except light decking),
- (d) timber less than 15 millimetres in thickness (except light decking),
- (e) timber less than 500 millimetres in length.

14 Commission to keep records of approvals and registered brands

- (1) The Commission must keep records of all approvals of preservative treatments and all brands registered in respect of those approvals.
- (2) Any person who wishes to do so may inspect the records of registered brands at the office of the Commission at Pennant Hills, New South Wales, whenever the office is open to the public.

15 Application for approval of preservative treatment and registration of brand

An application under section 18 (1) of the Act must be accompanied by a fee of \$150 for each approval sought.

16 Application for renewal of approval of preservative treatment and registration of brand

An application under section 23 (1) of the Act must be accompanied by a fee of \$150 for each approval sought to be renewed.

17 Application for variation of approval of preservative treatment and registration of brand

An application under section 24 (1) of the Act must be accompanied by a fee of \$75 for each approval sought to be varied.

18 Application for transfer of approval of preservative treatment and registration of brand

An application under section 25 (2) of the Act must be accompanied by a fee of \$75 for each consent to the transfer of an approval.

Clause 19 Timber Marketing Regulation 2005

Part 5 Miscellaneous

Part 5 Miscellaneous

19 Approved forms for purposes of Act

- (1) An approved form containing any directions for its completion must be completed in accordance with those directions.
- (2) In addition to any particulars required by an approved form of application for approval or consent to be provided on the form, the Commission may require a person to provide it with such further particulars with respect to the application as it considers necessary to determine whether the approval or consent should be given.
- (3) The Commission may reject an application for an approval or consent if the applicant fails:
 - (a) to complete the approved form of the application, or
 - (b) to comply with subclause (1) when completing that form, or
 - (c) to provide the Commission with any particulars with respect to the application, within a reasonable period after being requested to do so in accordance with subclause (2), or
 - (d) to pay to the Commission any fee required by this Regulation to accompany the application.

20 Form of certificate of authority

For the purposes of section 27 (1) of the Act, the prescribed form is Form 1 in Schedule 3.

21 Form of prescribed “not for sale” notice

- (1) For the purposes of section 32A (2) (a) of the Act, the prescribed form of notice is one that complies with the following requirements:
 - (a) the notice must consist of the words “NOT FOR SALE” and those words only,
 - (b) the words “NOT FOR SALE” must be printed in bold faced capital letters not less than 50 millimetres in height and 30 millimetres in width,
 - (c) the notice must not contain any alterations or erasures.
- (2) For the purposes of section 32A (2) (a) of the Act, the prescribed manner is to attach the notice to, or exhibit it near, the timber or articles so that:
 - (a) the notice is clearly visible to any person who is standing close to the timber or article, and

Timber Marketing Regulation 2005

Clause 22

Miscellaneous

Part 5

(b) it is clear as to which timber or article the notice relates.

Note. Section 32A of the Act establishes a rebuttable presumption that, in proceedings for an offence against the Act brought against a person who carries on a business of selling timber or timber articles, any timber or timber article found at a place of business of the person is for sale unless a notice is attached to or exhibited near the timber or article stating that the timber or article is not for sale.

22 Offence to fail to notify change of address

A person to whom an approval has been given or transferred must notify the Commission of any change in the person's address for the giving of notices under the Act. The notice must be given within 1 month after the change of address.

Maximum penalty: 5 penalty units.

23 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Timber Marketing Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

Timber Marketing Regulation 2005

Schedule 1 Prescribed species of trees

Schedule 1 Prescribed species of trees

(Clause 4 (3))

Part 1 Indigenous species

| Column 1 | Column 2 |
|--------------------|--|
| Common name | Scientific name |
| alder, rose | <i>Caldcluvia australiensis</i> |
| almond, rose | <i>Owenia venosa</i> |
| ash, mountain | <i>Eucalyptus regnans</i> |
| ash, pink | <i>Alphitonia petrici</i> |
| ash, red | <i>Alphitonia excelsa</i> <i>Alphitonia whitei</i> |
| ash, silvertop | <i>Eucalyptus sieberi</i> |
| backhousia, stony | <i>Backhousia hughesii</i> |
| belah | <i>Casuarina cristata</i> |
| blackbutt | <i>Eucalyptus pilularis</i> |
| box, brush | <i>Lophostemon confertus</i> |
| box, ironwood | <i>Choricarpia subargentea</i> <i>Choricarpia leptopetala</i> |
| box, kanuka | <i>Tristania laurina</i> <i>Tristania exiliflora</i> |
| box, swamp | <i>Tristania suaveolens</i> |
| box, white | <i>Eucalyptus albens</i> |
| box, white-topped | <i>Eucalyptus quadrangulata</i> |
| box, yellow | <i>Eucalyptus melliodora</i> |
| coachwood | <i>Ceratopetalum apetalum</i> |
| gum, grey | <i>Eucalyptus propinqua</i> <i>Eucalyptus major</i> <i>Eucalyptus punctata</i> |
| gum, scribbly | <i>Eucalyptus racemosa</i> <i>Eucalyptus micrantha</i> <i>Eucalyptus signata</i> |

Timber Marketing Regulation 2005

Prescribed species of trees

Schedule 1

| Column 1 | Column 2 |
|-----------------------------|---|
| Common name | Scientific name |
| hardwood, Johnstone River | <i>Backhousia bancroftii</i> |
| hollywood, yellow | <i>Premna lignum-vitae</i> |
| ironbark, grey | <i>Eucalyptus drepanophylla</i> <i>Eucalyptus paniculata</i> <i>Eucalyptus siderophloia</i> |
| ironbark, gum-topped | <i>Eucalyptus decorticans</i> |
| ironbark, red-broad-leaved | <i>Eucalyptus fibrosa</i> subsp. <i>fibrosa</i> |
| ironbark, red-narrow-leaved | <i>Eucalyptus crebra</i> |
| ironbark, silver-leaved | <i>Eucalyptus melanophloia</i> |
| mahogany, white | <i>Eucalyptus acmenoides</i> <i>Eucalyptus umbra</i> subsp. <i>umbra</i> <i>Eucalyptus umbra</i> subsp. <i>carnea</i> |
| malletwood | <i>Rhodamnia argentea</i> |
| malletwood, brown | <i>Rhodamnia rubescens</i> |
| malletwood, silver | <i>Rhodamnia acuminata</i> |
| mangrove, grey | <i>Avicennia marina</i> var. <i>australasica</i> |
| maple, Queensland | <i>Flindersia brayleyana</i> |
| maple, silkwood | <i>Flindersia pimenteliana</i> |
| maple, scented | <i>Flindersia laevis</i> var. <i>laevis</i> |
| messmate, Gympie | <i>Eucalyptus cloeziana</i> |
| myall | <i>Acacia pendula</i> |
| oak, bull | <i>Allocasuarina leuhmannii</i> |
| penda, brown | <i>Xanthostemon chrysanthus</i> |
| penda, red | <i>Xanthostemon whitei</i> |
| penda, southern | <i>Xanthostemon oppositifolius</i> |
| penda, yellow | <i>Tristania pachysperma</i> |
| saffronheart | <i>Halfordia kendack</i> <i>Halfordia scleroxyla</i> |
| sandalbox | <i>Eremophila mitchellii</i> |

Timber Marketing Regulation 2005

Schedule 1 Prescribed species of trees

| Column 1 | Column 2 |
|------------------------|--|
| Common name | Scientific name |
| sassafras | Daphnandra dielsii Doryphora sassafras Daphnandra repandula Daphnandra micrantha Doryphora aromatica |
| sassafras grey | Dryadodaphne novoguineensis |
| satinay | Syncarpia hillii |
| she-oak, beach | Casuarina equisetifolia Casuarina equisetifolia var. incana |
| she-oak, black | Allocasuarina littoralis |
| she-oak, river | Casuarina cunninghamiana |
| she-oak, rose | Allocasuarina torulosa |
| stringybark, blackdown | Eucalyptus sphaerocarpa |
| stringybark, white | Eucalyptus eugenioides Eucalyptus phaeotricha |
| stringybark, yellow | Eucalyptus muellerana |
| sycamore, silver | Cryptocarya glaucescens |
| tea-tree, river | Melaleuca bracteata |
| turpentine | Syncarpia glomulifera |
| wattle, ironwood | Acacia excelsa |
| yapunyah, mountain | Eucalyptus thozetiana |
| yarran | Acacia homalophylla |

Part 2 Exotic species

| Column 1 | Column 2 |
|--------------------|------------------------|
| Common name | Scientific name |
| beech, silver | Nothofagus menziesii |
| chengal | Balanocarpus spp. |
| dabarima | Planchonia spp. |
| gaboon | Aucoumea klaineana |

Timber Marketing Regulation 2005

Prescribed species of trees

Schedule 1

| Column 1 | Column 2 |
|--------------------|-------------------------------|
| Common name | Scientific name |
| genonggang | <i>Cratoxylon arborescens</i> |
| giam | <i>Hopea</i> spp. |
| kamarere | <i>Eucalyptus deglupta</i> |
| kapur | <i>Dryobalanops</i> spp. |
| malas | <i>Homalium</i> spp. |
| medang | <i>Cinnamomum</i> spp. |
| vitex | <i>Vitex</i> spp. |

Timber Marketing Regulation 2005

Schedule 2 Prescribed standards for moisture content of timber

Schedule 2 Prescribed standards for moisture content of timber

(Clauses 3 (3), 8 and 9)

| Column 1 | Column 2 | Column 3 |
|--|---|---------------------------------|
| Class of timber | Provision of the Act for which standard is prescribed | Standard |
| 1 <i>Stress graded sawn, dressed or sized hardwood intended for structural purposes:</i> Sawn, dressed or sized hardwood which is intended for structural purposes and which has been stress graded by visual means | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 1.8 of AS 2082—2000 |
| 2 <i>Stress graded sawn, dressed or sized softwood intended for structural purposes:</i> Sawn, dressed or sized softwood which is intended for structural purposes and which has been stress graded by visual means | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 1.8 of AS 2858—2004 |
| 3 <i>Hardwood sawn and milled products:</i> Strip flooring, light decking, parquet flooring, lining boards, dressed boards, joinery and mouldings, cladding, fascia and bargeboards, sawn boards for feedstock (dressing), overlay strip flooring | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 2.2 of AS 2796.1—1999 |
| 4 <i>Softwood sawn and milled products:</i> Strip flooring, light decking, parquet flooring, lining boards, dressed boards, joinery and mouldings, cladding, fascia and bargeboards, sawn boards for feedstock (dressing), overlay strip flooring | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 2.2 of AS 4785.1—2000 |

Timber Marketing Regulation 2005

Prescribed standards for moisture content of timber

Schedule 2

| Column 1 | Column 2 | Column 3 |
|--|--|--------------------------------|
| Class of timber | Provision of the Act for which standard is prescribed | Standard |
| 5 <i>Cypress milled products:</i> | | |
| Flooring boards, light decking, lining, dressed boards, joinery stock and mouldings, cladding, fascia and bargeboards | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 2.1 of AS 1810—1995 |
| 6 <i>Window frames and sashes:</i> | | |
| Timber used in frames and sashes for windows | Section 14 (1) | Clause 3.2.1.3 of AS 2047—1999 |
| 7 <i>Doors and their hanging frames:</i> | | |
| (a) Timber used in doors | Section 14 (1) | Clause 2.5 of AS 2688—1984 |
| (b) Timber used in the hanging frames for doors | Section 14 (1) | Clause 2.2 of AS 2689—1984 |
| 8 <i>Plywood and blockboard:</i> | | |
| (a) Structural plywood | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 1.7 of AS/NZS 2269—2004 |
| (b) Plywood and blockboard intended for non-structural uses where the material is fully protected from the weather or damp conditions, other than blockboard for use in flush doors with blockboard infill | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 1.7 of AS/NZS 2270—1999 |
| (c) Plywood and blockboard intended for uses where the material is exposed to the weather or damp conditions, other than blockboard for use in flush doors with blockboard infill | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 1.7 of AS/NZS 2271—2004 |
| (d) Marine plywood | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 1.8 of AS/NZS 2272—1996 |

Timber Marketing Regulation 2005

Schedule 2 Prescribed standards for moisture content of timber

| Column 1 | Column 2 | Column 3 |
|--|--|-------------------------------------|
| Class of timber | Provision of the Act for which standard is prescribed | Standard |
| 9 <i>Particleboard:</i> Particleboard produced by flat pressing or means other than the extrusion process | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 2.3 of AS/NZS 1859.1—2004 |
| 10 <i>Medium density fibreboard:</i> Medium density fibreboard produced by mat forming | Sections 12 (d) (i), 12A (b) (i) and 14 (1) | Clause 2.3 of AS/NZS 1859.2—2004 |

Timber Marketing Regulation 2005

Form

Schedule 3

Schedule 3 Form

(Clause 20)

Form 1 Certificate of authority

Timber Marketing Act 1977, section 27

No

Sydney, [date]

This certificate certifies that [name] [whose photograph is attached] is a person authorised under section 27 (1) of the *Timber Marketing Act 1977* to exercise and perform the powers, authorities, duties and functions under that section and section 27A of that Act.

The seal of the Forestry Commission of New South Wales was affixed to this certificate on the date mentioned above in the presence of:

Secretary



New South Wales

Totalizator Regulation 2005

under the

Totalizator Act 1997

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

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

Explanatory note

This object of this Regulation is to remake, with one addition but otherwise without substantive changes, the *Totalizator Regulation 1998*. That Regulation will be repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation deals with the following matters:

- (a) an exemption from section 33 of the *Totalizator Act 1997* (being the provision that prohibits a person being entitled to more than 10% of the total number of voting shares in the licensee under that Act (being TAB Limited)) (Part 2),
- (b) responsible gambling practices, including the following:
 - (i) requirements relating to the provision of problem gambling brochures,
 - (ii) information and warnings on totalizator betting printed entry forms and betting tickets,
 - (iii) the display of notices relating to the G-line counselling service,
 - (iv) controls on advertising and inducements relating to totalizator betting (Part 3),
- (c) the prescription of certain persons as key employees in relation to the conduct of a totalizator for the purposes of the *Totalizator Act 1997* (clause 15)),
- (d) matters of a savings or machinery nature (clause 17 and Part 1).

The additional matter is a clause prescribing certain offences for the purposes of section 103A (Remedial orders) of the *Totalizator Act 1997* (clause 16). That section permits a court that finds a person guilty of an offence so prescribed to make certain orders in respect of the person (in addition, or as an alternative, to any penalty that it may impose for the offence).

Totalizator Regulation 2005

Explanatory note

The orders may require, for example, the person to undertake a specified course of training that the court considers will promote responsible practices in the conduct of betting activities by the person.

This Regulation is made under the *Totalizator Act 1997*, including sections 117 (the general regulation-making power), section 117A (Responsible conduct of totalizators, totalizator betting and other betting activities) and the other sections referred to in the Regulation.

Totalizator Regulation 2005

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Clause 1 Totalizator Regulation 2005

Part 1 Preliminary

Totalizator Regulation 2005

under the

Totalizator Act 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Totalizator Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Totalizator Regulation 1998* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Totalizator Act 1997*.

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

Totalizator Regulation 2005

Clause 4

Relevant interests in shares

Part 2

Part 2 Relevant interests in shares

4 Exemption from prohibited shareholding interest provisions: section 31 (7)

- (1) The relevant interest that a relevant body has in shares of a licensee is to be disregarded for the purpose of determining whether the body has a prohibited shareholding interest (as referred to in section 33 of the Act) in the licensee 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) a 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).
- (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.

| | |
|----------|------------------------------|
| Clause 4 | Totalizator Regulation 2005 |
| Part 2 | Relevant interests in shares |

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 company or scheme.

responsible entity of a registered scheme has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

Totalizator Regulation 2005

Clause 5

Responsible gambling practices

Part 3

Part 3 Responsible gambling practices

Division 1 Problem gambling signage and information

5 Definitions

In this Division:

problem gambling information means the G-line (NSW) help line phone number operated under contractual arrangements made by the Department of Gaming and Racing.

6 Approval of gambling information brochures

- (1) The Minister may approve one or more pamphlets or brochures containing problem gambling information in the English language (a *problem gambling information brochure*).
- (2) A problem gambling information brochure must contain advice in the Arabic, Croatian, Chinese, Greek, Italian, Korean, Macedonian, Maltese, Serbian, Spanish, Turkish and Vietnamese languages that:
 - (a) indicates the substance of the information contained in English in the brochure, and
 - (b) advises that the information will be supplied by the licensee in the relevant language on request.
- (3) Subclause (2) does not prevent a problem gambling information brochure under this clause containing other information.
- (4) The Minister may approve one or more pamphlets or brochures containing problem gambling information in the Arabic, Croatian, Chinese, Greek, Italian, Korean, Macedonian, Maltese, Serbian, Spanish, Turkish and Vietnamese languages (a *community language problem gambling information brochure*).
- (5) The Minister may vary or withdraw any approval given under this clause.

7 Provision of problem gambling information brochures

A licensee must ensure that:

- (a) copies of at least one type of problem gambling information brochure approved by the Minister under clause 6 (1) are made available in each part of the premises on which totalizator betting is being conducted under the licence, and

| | |
|----------|--------------------------------|
| Clause 8 | Totalizator Regulation 2005 |
| Part 3 | Responsible gambling practices |

- (b) those copies are displayed in such a manner and in such a place that it would be reasonable to expect that a person in the part of the premises in which the brochures are displayed would be alerted to their presence.

Maximum penalty: 50 penalty units.

8 Provision of community language problem gambling information brochures

- (1) A person may request a licensee to supply a community language problem gambling information brochure approved by the Minister under clause 6 (4) in one of the languages specified in that subclause.
- (2) A licensee must supply a community language problem gambling information brochure in accordance with a request made under subclause (1) as soon as practicable after being requested to do so.

Maximum penalty: 50 penalty units.

9 Gambling information and warnings

A licensee must ensure that each printed entry form (however described) and betting ticket in a totalizator conducted by the licensee contains the following:

Is gambling a problem for you?
CALL G-line (NSW)
counselling service
1800 633 635

Maximum penalty: 50 penalty units.

10 Counselling signage—notice to be displayed

- (1) A licensee must:
- (a) display a notice that complies with this clause in each part of the premises in which totalizator betting is conducted by the licensee, and
- (b) display the notice in such a manner and in such a place that it would be reasonable to expect that a person using the part of the premises in relation to which the notice is displayed would be alerted to its contents.

Maximum penalty: 50 penalty units.

- (2) The notice must contain the following:

Is gambling a problem for you?
CALL G-line (NSW)
counselling service
1800 633 635

Totalizator Regulation 2005

Clause 11

Responsible gambling practices

Part 3

- (3) Subclause (2) does not prevent a notice under this clause containing other information.
- (4) The notice must be at least 42 centimetres by 29.5 centimetres in size, and the matter contained in the notice must be in letters and figures of not less than 0.6 centimetres in height.

11 ATM and EFT signage

- (1) A licensee must display a notice in accordance with this clause in a prominent position on or adjacent to each automatic teller machine (ATM) and electronic funds transfer facility (EFT) located on the premises on which totalizator betting is being conducted under the licence.

Maximum penalty: 50 penalty units.

- (2) The notice must contain the following:

Is gambling a problem for you?
CALL G-line (NSW)
counselling service
1800 633 635

- (3) Subclause (2) does not prevent a notice under this clause containing other information.
- (4) The matter contained in the notice must be in letters and figures of not less than 0.2 centimetres in height.
- (5) The notice may consist of a permanently visible light emitting display that forms part of the machine or facility.

Division 2 Totalizator advertising and inducements

12 Definitions

In this Division, *publish* and *totalizator advertising* have the same meanings as they have in section 80 of the Act.

13 Prohibitions on totalizator advertising

- (1) The requirements of subclauses (2), (3) and (4) are prescribed as requirements for the purposes of section 80 (1) of the Act.
Note. Section 80 (1) of the Act makes it an offence for a licensee or other person to publish, or cause to be published, any totalizator advertising that is in contravention of a requirement of the regulations or the rules. The maximum penalty for the offence is 50 penalty units.
- (2) A licensee, or an employee or agent of a licensee, must not publish, or cause to be published, any totalizator advertising that:
 - (a) encourages a breach of the law, or

| | |
|-----------|--------------------------------|
| Clause 14 | Totalizator Regulation 2005 |
| Part 3 | Responsible gambling practices |

- (b) depicts children gambling, or
 - (c) is false, misleading or deceptive, or
 - (d) suggests that winning will be a definite outcome of participating in gambling activities, or
 - (e) suggests that participation in gambling activities is likely to improve a person's financial prospects, or
 - (f) promotes the consumption of alcohol while engaging in gambling activities, or
 - (g) is not published in accordance with decency, dignity and good taste and, if the totalizator advertising takes the form of a television advertisement, in accordance with the Commercial Television Industry Code of Practice as in force at the time the totalizator advertising is published.
- (3) A licensee, or an employee or agent of a licensee, is not to publish, or cause to be published, any totalizator advertising in writing in a newspaper, magazine, poster or other printed form that does not contain the following in capital letters:
- IS GAMBLING A PROBLEM FOR YOU?
G-LINE (NSW) IS A COUNSELLING SERVICE
CALL 1800 633 635
- (4) A person other than a licensee, or an employee or agent of a licensee, must not publish any totalizator advertising that does any of the things referred to in subclause (2) (a)–(g).
 - (5) Subclause (4) does not apply if the licensee conducting the totalizator to which the advertising relates, or an employee or agent of the licensee, approved in writing of the publication of the advertising.
 - (6) This clause does not apply to the publication of any totalizator advertising under a contract or arrangement entered into before 2 February 2001.
 - (7) A licensee, or an employee or agent of a licensee, must not enter into or extend the duration of any contract or arrangement for the publication of totalizator advertising that does not comply with this clause.
Maximum penalty (subclause (7)): 50 penalty units.

14 Gambling inducements

A licensee, or an employee or agent of a licensee, must not offer or supply any free or discounted liquor as an inducement to participate, or to participate frequently, in any totalizator betting.

Maximum penalty: 50 penalty units.

Totalizator Regulation 2005

Clause 15

Miscellaneous

Part 4

Part 4 Miscellaneous

15 Key employees

For the purposes of the definition of *key employee* in section 5 (1) of the Act, the following persons are prescribed:

- (a) any person (whether or not appointed under a contract of service) who is:
 - (i) employed in a managerial or supervisory capacity in relation to the conduct of a totalizator by or on behalf of a licensee, or
 - (ii) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of a licensee in relation to a totalizator conducted by or on behalf of the licensee,
- (b) any person (whether or not appointed under a contract of service) whose duties in relation to the conduct of a totalizator by or on behalf of a licensee include any of the following:
 - (i) the taking of bets on the totalizator,
 - (ii) the calculation, determination or declaring of any dividends in the totalizator,
 - (iii) involvement in the financial or accounting aspects of the conduct of the totalizator (including any dealing with money invested on the totalizator),
 - (iv) the design, construction, creation, operation, repair or maintenance of any device, equipment or computer software that is used in connection with the conduct of the totalizator or that otherwise affects the conduct of the totalizator,
 - (v) involvement in the security requirements in respect of the totalizator,

except such persons as are employed or engaged in positions identified by the Minister from time to time, by notice in writing served on the licensee, as being outside the scope of this definition.

16 Remedial orders

The following offences are prescribed for the purposes of section 103A of the Act:

- (a) offences against section 80 (1), 81 (1), 82 (1) and 84 (3) of the Act,
- (b) offences against clauses 7, 8, 10, 11, 13 and 14 of this Regulation.

Clause 17 Totalizator Regulation 2005

Part 4 Miscellaneous

17 Savings provision

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



New South Wales

Water Management (Water Supply Authorities) Amendment Regulation 2005

under the

Water Management Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Management Act 2000*.

IAN MACDONALD, M.L.C.,
Minister for Natural Resources

Explanatory note

The object of this Regulation is to amend the *Water Management (Water Supply Authorities) Regulation 2004* to incorporate certain provisions of the *Water Management (Upper Parramatta River Catchment Trust) Regulation 2000* which is repealed by this Regulation.

The new provisions relate to the Upper Parramatta River Catchment Trust (*the Trust*), specifically:

- (a) the area of operations of the Trust, and
- (b) the application of service charges and other charges and levies, and
- (c) the declaration of land to be a flood plain or river management area and appeals against such a declaration, and
- (d) savings and transitional provisions, and
- (e) other matters of a minor or consequential nature.

This Regulation is made under the *Water Management Act 2000*, including sections 289, 313, 314, 322 and section 400 (the general regulation-making power).

Clause 1 Water Management (Water Supply Authorities) Amendment Regulation
 2005

Water Management (Water Supply Authorities) Amendment Regulation 2005

under the

Water Management Act 2000

1 Name of Regulation

This Regulation is the *Water Management (Water Supply Authorities) Amendment Regulation 2005*.

2 Amendment of Water Management (Water Supply Authorities) Regulation 2004

The *Water Management (Water Supply Authorities) Regulation 2004* is amended as set out in Schedule 1.

3 Repeal of Water Management (Upper Parramatta River Catchment Trust) Regulation 2000

The *Water Management (Upper Parramatta River Catchment Trust) Regulation 2000* is repealed.

Water Management (Water Supply Authorities) Amendment Regulation
2005

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 2)

[1] Clause 7B

Insert after clause 7A:

7B Upper Parramatta River Catchment Trust

- (1) The Upper Parramatta River Catchment Trust's area of operations is the Area shown bounded by a red line on the map numbered 45/1203 deposited in the office of the Department of Infrastructure, Planning and Natural Resources at Parramatta, not including the area shown bounded by a red line on the map marked "Upper Parramatta River Catchment Trust—Excluded Area" deposited in that office.
- (2) The Upper Parramatta River Catchment Trust has and may exercise all the functions of a water supply authority other than functions relating to the supply of water, the provision of sewerage services and the disposal of trade waste and waste water.
- (3) The Upper Parramatta River Catchment Trust is exempt from clauses 9–11 and 116–119.

[2] Clause 83 Application

Insert after clause 83 (d1):

- (d2) Upper Parramatta River Catchment Trust (except clauses 87, 90 and 99),

[3] Clause 86 Classification of land

Insert at the end of clause 86:

- (2) Subclause (1) (c) and (d) do not apply with respect to the Upper Parramatta River Catchment Trust.

[4] Clause 87A

Insert after clause 87:

87A Basis of levying service charges—Upper Parramatta River Catchment Trust

For the purposes of section 314 of the Act, the Upper Parramatta River Catchment Trust may only levy service charges according to either or both of the following bases:

- (a) a flat rate for all land of a particular classification,

Water Management (Water Supply Authorities) Amendment Regulation
2005

Schedule 1 Amendments

- (b) the area of the land on which the service charge is being levied.

[5] Part 7 Finance generally

Insert after Division 3:

Division 3A Flood plain and river management area

99A Notice of flood plain or river management area

- (1) The Upper Parramatta River Catchment Trust must keep in its office a map of any flood plain or river management area within its area of operations.
- (2) The Upper Parramatta River Catchment Trust must make the map available for inspection at reasonable times during its ordinary office hours.
- (3) The Upper Parramatta River Catchment Trust must publish in at least one newspaper circulating in the flood plain or river management area, as the case may be, a notice to the effect that:
 - (a) the land concerned has been declared to be a flood plain or a river management area, and
 - (b) a map of the flood plain or river management area may be inspected at a specified place or specified places, and
 - (c) flood mitigation service charges or river management service charges, as the case may be, are to be levied on the land in the flood plain or river management area within a specified time, and
 - (d) an objection to the inclusion of an owners land in the flood plain or river management area may be lodged with the Upper Parramatta River Catchment Trust but only on the ground:
 - (i) in the case of land within a flood plain—that the land does not benefit from the flood mitigation services proposed to be undertaken, or
 - (ii) in the case of the land within a river management area—that the surface run-off water from the land does not drain into other land within the area, and
 - (e) an objection must be in writing and must be lodged with the Upper Parramatta River Catchment Trust before a specified day (being a date that is not earlier than 14 days after the publication of the notice), and

Water Management (Water Supply Authorities) Amendment Regulation
2005

Amendments

Schedule 1

-
- (f) an objection will be referred by the Upper Parramatta River Catchment Trust to an adjudicator for determination, and
 - (g) an objector is not entitled to appear, or be represented before the adjudicator without being required by the adjudicator to do so.
- (4) The Upper Parramatta River Catchment Trust must:
- (a) appoint a person (other than a person subject to the direction or control of the Upper Parramatta Catchment Trust) as an adjudicator on objections relating to the flood plain or river management area, and
 - (b) refer all duly lodged objections to the adjudicator, and
 - (c) serve personally or by post on each objector, at the address of the objector last known to the Upper Parramatta Catchment Area Trust, notice of the determination of the adjudicator on the objection.

[6] Clause 120 Repeals, savings and transitional provisions

Insert at the end of clause 120 (2) (f):

, or

- (g) the *Water Management (Upper Parramatta River Catchment Trust) Regulation 2000*,

By-laws



New South Wales

Parramatta Stadium Trust By-law 2005

under the

Parramatta Stadium Trust Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has approved the following By-law made by the Parramatta Stadium Trust under the *Parramatta Stadium Trust Act 1988*.

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

Explanatory note

The object of this By-law is to remake, with minor changes only, the *Parramatta Stadium Trust By-law 2000*. The new By-law:

- (a) regulates the entry of persons into the Parramatta Stadium and areas within the Stadium and the conduct of persons within the Stadium, and
- (b) regulates the entry of vehicles to the Stadium and the driving and parking of vehicles in the Stadium, and
- (c) requires a person having a booth, bar, stall or stand in the Stadium to comply with the directions of the Trust, and
- (d) provides for the removal from the Stadium of persons found contravening the provisions of the By-law, and
- (e) enables the Trust to authorise any trustee, any member or staff of the Trust, any police officer or any other person to exercise a power conferred on the Trust by the By-law, and
- (f) makes it an offence for a person to obstruct a person carrying out functions under the By-law or any contractor to the Trust while performing work for the Trust, and
- (g) provides that a person does not contravene the By-law if the person is a trustee or is acting in the course of employment as a member of staff of the Trust, or is acting in accordance with a lease or licence granted by the Trust or with the consent of the Trust.

This By-law is made under the *Parramatta Stadium Trust Act 1988*, including section 21 (the general by-law making power).

Parramatta Stadium Trust By-law 2005

Explanatory note

This By-law is made in connection with the staged repeal of statutory rules under Part 3 of the *Subordinate Legislation Act 1989*.

Parramatta Stadium Trust By-law 2005

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Clause 1 Parramatta Stadium Trust By-law 2005

Part 1 Preliminary

Parramatta Stadium Trust By-law 2005

under the

Parramatta Stadium Trust Act 1988

Part 1 Preliminary

1 Name of By-law

This By-law is the *Parramatta Stadium Trust By-law 2005*.

Note. This By-law replaces the *Parramatta Stadium Trust By-law 2000* which is repealed on 1 September 2005 under section 10 (2) of the *Subordinate Legislation Act 1989*.

2 Commencement

This By-law commences on 1 September 2005.

3 Definitions

(1) In this By-law:

reserved area means a grandstand in the Stadium, or a part of a grandstand in the Stadium, that is set aside for reserved seats in accordance with clause 4.

reserved seat means a seat that is situated within a reserved area.

Stadium means the stadium that is situated on the trust land.

the Act means the *Parramatta Stadium Trust Act 1988*.

ticket means a ticket issued by or with the authority of the Trust, being a ticket that authorises its holder:

(a) to enter the Stadium or a reserved area within the Stadium, or

(b) to occupy a reserved seat within the Stadium.

Trust means the Parramatta Stadium Trust.

(2) Notes included in the text of this By-law do not form part of this By-law.

4 Reserved areas

The Trust may, either generally or for a particular event, set aside any grandstand in the Stadium, or any part of a grandstand in the Stadium, for reserved seats.

Parramatta Stadium Trust By-law 2005

Clause 5

Regulation of conduct on trust land

Part 2

Part 2 Regulation of conduct on trust land

5 Entry

- (1) The Trust may impose such conditions as the Trust thinks fit, by means of notices conspicuously displayed on or about the trust land or the giving of directions, on the admission of persons or vehicles to the trust land.
- (2) A person must comply with any condition to which the person's entrance was subject.
Maximum penalty: 5 penalty units.
- (3) The Trust may refuse to admit a vehicle to the trust land.
- (4) A person must not cause a vehicle to enter the trust land if admission is refused by the Trust.
Maximum penalty: 5 penalty units.

6 Tickets

- (1) A person who is not in lawful possession of an appropriate ticket must not:
 - (a) enter or remain in the Stadium or any reserved area, or
 - (b) occupy a reserved seat.Maximum penalty: 5 penalty units.
- (2) The Trust may direct any person:
 - (a) who is within the Stadium or any reserved area, or
 - (b) who is occupying a reserved seat,to produce an appropriate ticket for inspection by the Trust.
- (3) The Trust may direct a person who is in unlawful possession of a ticket to surrender the ticket to the Trust.
- (4) A person must comply with a direction under this clause.
Maximum penalty: 5 penalty units.

7 Driving and parking

- (1) The Trust may, by means of notices or barriers, regulate the driving and parking of vehicles on the trust land.
- (2) A person must not cause a vehicle to be driven or parked on the trust land in wilful contravention of any such notice or in wilful disregard of any such barrier.
Maximum penalty: 5 penalty units.

Clause 8 Parramatta Stadium Trust By-law 2005

Part 2 Regulation of conduct on trust land

- (3) The Trust:
- (a) may from time to time fix a scale of charges for the parking of vehicles on the trust land, and
 - (b) may demand and receive such charges from any person parking a vehicle on the trust land.
- (4) The Trust may direct a person to remove from the trust land any unlawfully parked vehicle that is under the person's control.
- (5) A person must comply with a direction under this clause.
Maximum penalty: 5 penalty units.
- (6) For the purposes of this clause, *park* includes stand and wait.

8 Liquor

A person must not bring liquor onto the trust land except for the purpose of supply to premises that are the subject of:

- (a) a licence under the *Liquor Act 1982*, or
 - (b) a certificate of registration under the *Registered Clubs Act 1976*.
- Maximum penalty: 5 penalty units.

9 Entry onto playing fields

A person must not enter or remain on a playing field within the trust land unless the person is:

- (a) a participant in any football match, game, sport or event that is held with the permission of the Trust, or
- (b) a person engaged in the control or management of any football match, game, sport or event held with the permission of the Trust.

Maximum penalty: 5 penalty units.

10 Damage to trust land and structures and vegetation on trust land

A person must not, within the trust land:

- (a) damage any lawn, green or playing field, except in the course of, and as a normal incident of, a sporting event or training for a sporting event, or
- (b) remove, uproot, or cause damage to, or remove any part from, a tree, shrub, fern, creeper, vine, palm, plant or other vegetation, or
- (c) remove any timber, log or stump, standing or fallen, or
- (d) deface a rock or dig up any soil, sand, stone or similar substance, or
- (e) write on, paint on or damage, deface or interfere with:

Parramatta Stadium Trust By-law 2005

Clause 11

Regulation of conduct on trust land

Part 2

-
- (i) any road, path, fence, barrier, gate, fence-post, wall, building, structure, seat, furniture, play equipment, fountain, statue, ornament or monument or any sign, notice, descriptive plate, label or other fixture or fitting erected, displayed or placed by the Trust, or
 - (ii) any machinery or equipment, or
 - (f) light any fire, or
 - (g) climb in any tree or on any building, or climb or jump over any fence, seat, table, enclosure or other structure, or
 - (h) destroy, capture, injure or annoy any animal living within the trust land, or
 - (i) destroy or interfere with the habitat of any animal.

Maximum penalty: 5 penalty units.

11 Animals

A person must not:

- (a) allow any stock to depasture within the trust land, or
- (b) allow any animal in the person's custody or under the person's control to enter on or remain within the trust land (unless the animal is to be or is being exhibited in an authorised show or display), or
- (c) within the trust land, ride any animal or act contrary to any sign erected by the Trust that regulates the movement or confinement of animals.

Maximum penalty: 5 penalty units.

12 Camping and erection of structures

- (1) A person must not, within the trust land:

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

Maximum penalty: 5 penalty units.

- (2) A person who has erected or occupied or caused to be erected or occupied any building, tent, screen, awning, enclosure or other structure or thing contrary to this clause must, when required by the Trust, immediately remove that building, tent, screen, awning, enclosure or other structure or thing.

Maximum penalty: 5 penalty units.

Clause 13 Parramatta Stadium Trust By-law 2005

Part 2 Regulation of conduct on trust land

- (3) If a person fails to comply with any such requirement, the Trust:
- (a) may remove, or cause to be removed, the building, tent, screen, awning, enclosure or other structure or thing to the care of the person to whom the direction was given, or
 - (b) may impound the building, tent, screen, awning, enclosure or other structure or thing.
- (4) Property that is impounded under this clause is taken to be impounded under the *Impounding Act 1993*, and is to be dealt with accordingly.

13 Hazardous or annoying behaviour

A person must not, within the trust land:

- (a) throw or project any stone or other missile except at a side show or ring display authorised by the Trust or in the course of, and as a normal incident of, a sporting event or training for a sporting event, or
- (b) do or say anything calculated to hinder or interfere with the proper progress of any match, game, sport or event or the packing up or removal of equipment after an event, or
- (c) enter or mount any stage or performing area with the intention of hindering or interfering with a performance or the preparations for a performance.

Maximum penalty: 5 penalty units.

14 Other conduct prohibited

A person must not, within the trust land:

- (a) collect or attempt to collect any money, or
- (b) sell or hire or attempt to sell or hire, expose for sale or hire or solicit for sale or hire any papers, printed matter, food, article, thing or service to any person, or
- (c) conduct, or cause or assist the operation of, any amusement, entertainment, instruction or performance, for money or any other kind of consideration, or so as to compete with or hinder the commercial operations of any person or body holding a lease or licence from the Trust, or
- (d) organise, attend or participate in, or cause to be organised, any public meeting, function, demonstration or gathering, or
- (e) erect any hoarding or notice, or display or distribute any commercial or political advertising matter, sign, bill, poster or other printed matter, or

Parramatta Stadium Trust By-law 2005

Clause 14

Regulation of conduct on trust land

Part 2

-
- (f) have or use television, cinematographic, photographic, broadcasting or recording equipment for commercial purposes, or
 - (g) ride any cycle on any grassed portion, or
 - (h) ride any skateboard, or
 - (i) operate a motorised model aircraft, boat, car or similar thing, or
 - (j) operate a radio, cassette, record player or any other instrument using amplified sound at a volume likely to cause a nuisance or annoyance to any person, or
 - (k) bathe, wade, wash or swim in any lake, pond, stream or ornamental water, or
 - (l) play or practise golf, or
 - (m) discharge fireworks (including lighting any flare).
- Maximum penalty: 5 penalty units.

Clause 15 Parramatta Stadium Trust By-law 2005

Part 3 General

Part 3 General

15 Directions relating to booths and bars

- (1) The Trust may give directions for the conduct of any booth, bar, stall or stand situated within the trust land.
- (2) A person conducting any such booth, bar, stall or stand must comply with a direction under this clause.
Maximum penalty: 5 penalty units.

16 Exclusion of public

- (1) The Trust may, by means of notices or barriers, exclude the public from any part of the trust land.
- (2) A person must not enter any part of the trust land from which the public has been so excluded.
Maximum penalty: 5 penalty units.

17 Removal of public

- (1) The Trust may direct a person to leave the trust land or a reserved area:
 - (a) if the person is unlawfully within the trust land or reserved area, or
 - (b) if the person is contravening any provision of this By-law, or
 - (c) if the person is causing annoyance or inconvenience to members of the public who are lawfully and peaceably within the trust land or the reserved area.
- (2) A person must comply with a direction under this clause.
Maximum penalty: 5 penalty units.
- (3) The Trust may remove from the trust land or from a reserved area any person who fails to comply with a direction under this clause.

18 Exercise of Trust's powers

The Trust may authorise any trustee, any member of staff of the Trust, any police officer or any other person to exercise a power conferred on the Trust by this By-law, and the power may be exercised accordingly.

19 Hindering and obstructing

A person must not hinder or obstruct:

- (a) any person in the exercise on the Trust land of a power conferred on the person by or under this By-law, or

Parramatta Stadium Trust By-law 2005

Clause 20

General

Part 3

-
- (b) any contractor to the Trust in the performance on the Trust land of the contractor's work.

Maximum penalty: 5 penalty units.

20 Certain acts and omissions not to be offences

- (1) A person does not commit an offence under this By-law if the act or omission giving rise to the offence was done or omitted:
- (a) by a trustee or a member of staff of the Trust in the exercise of his or her employment as such, or
 - (b) in accordance with the conditions (whether express or implied) of a lease or licence granted by the Trust, or
 - (c) under the direction or with the consent of the Trust.
- (2) The consent of the Trust referred to in this clause may be given generally or in a particular case.

21 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Parramatta Stadium Trust By-law 2000*, had effect under that By-law continues to have effect under this By-law.

Orders



New South Wales

Subordinate Legislation (Postponement of Repeal) Order 2005

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 24th day of August 2005.

By Her Excellency's Command,

MORRIS IEMMA, M.P.,
Premier

Clause 1 Subordinate Legislation (Postponement of Repeal) Order 2005

Subordinate Legislation (Postponement of Repeal) Order 2005

under the

Subordinate Legislation Act 1989

1 Name of Order

This Order is the *Subordinate Legislation (Postponement of Repeal) Order 2005*.

2 Commencement

This Order commences on 31 August 2005.

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 2005 to 1 September 2006.

Subordinate Legislation (Postponement of Repeal) Order 2005

Statutory rules

Schedule 1

Schedule 1 Statutory rules

(Clause 3)

Agricultural Livestock (Disease Control Funding) Regulation 2000

Air Transport Regulation 2000

Associations Incorporation Regulation 1999

Bail Regulation 1999

Bills of Sale Regulation 1998

Building and Construction Industry Long Service Payments Regulation 2000

Clean Waters Regulations 1972

Coal Mines (General) Regulation 1999

Coal Mines (Investigation) Regulation 1999

Coal Mines (Open Cut) Regulation 1999

Coal Mines (Underground) Regulation 1999

Commercial Agents and Private Inquiry Agents Regulation 2000

Commission for Children and Young People Regulation 2000

Community Land Development Regulation 2000

Community Land Management Regulation 2000

Companion Animals Regulation 1999

Consumer Claims Regulation 1999

Contaminated Land Management Regulation 1998

Crimes (Detention after Arrest) Regulation 1998

Criminal Assets Recovery Regulation 2000

Crown Lands Regulation 2000

Crown Lands (Continued Tenures) Regulation 2000

Dangerous Goods (Gas Installations) Regulation 1998

Dangerous Goods (General) Regulation 1999

Day Procedure Centres Regulation 1996

Drug Misuse and Trafficking Regulation 2000

Electricity Safety (Equipment Efficiency) Regulation 1999

Electricity Safety (Equipment Safety) Regulation 1999

Environmentally Hazardous Chemicals Regulation 1999

Firearms (General) Regulation 1997

Googong Dam Catchment Area Regulation 2000

Subordinate Legislation (Postponement of Repeal) Order 2005

Schedule 1 Statutory rules

Judicial Officers Regulation 2000
Law Enforcement (Controlled Operations) Regulation 1998
Liens on Crops and Wool and Stock Mortgages Regulation 1998
Liquor Regulation 1996
Marine Parks Regulation 1999
Meat Industry (Meat Industry Levy) Regulation 1999
Mental Health Regulation 2000
Mines Inspection General Rule 2000
Mines Inspection Regulation 1999
Motor Vehicle Repairs Regulation 1999
Non-Indigenous Animals Regulation 1997
Offshore Minerals Regulation 2000
Ozone Protection Regulation 1997
Parking Space Levy Regulation 1997
Passenger Transport (Bus Services) Regulation 2000
Passenger Transport (Ferry Services) Regulation 2000
Passenger Transport (General) Regulation 2000
Pesticides Regulation 1995
Pharmacy (Elections) Regulation 1998
Pharmacy (General) Regulation 1998
Police Regulation 2000
Prevention of Cruelty to Animals (Animal Trades) Regulation 1996
Prevention of Cruelty to Animals (General) Regulation 1996
Private Hospitals Regulation 1996
Protection of the Environment Operations (Control of Burning) Regulation 2000
Protection of the Environment Operations (General) Regulation 1998
Protection of the Environment Operations (Noise Control) Regulation 2000
Public Health (Microbial Control) Regulation 2000
Public Health (Skin Penetration) Regulation 2000
Public Health (Swimming Pools and Spa Pools) Regulation 2000
Public Health (Tobacco) Regulation 1999
Registered Clubs Regulation 1996
Residential Parks Regulation 1999
Retirement Villages Regulation 2000

Subordinate Legislation (Postponement of Repeal) Order 2005

Statutory rules

Schedule 1

Road and Rail Transport (Dangerous Goods) (Rail) Regulation 1999
Road and Rail Transport (Dangerous Goods) (Road) Regulation 1998
Road Transport (Driver Licensing) Regulation 1999
Road Transport (General) Regulation 1999
Road Transport (Mass, Loading and Access) Regulation 1996
Road Transport (Safety and Traffic Management) (Driver Fatigue) Regulation 1999
Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999
Road Transport (Vehicle Registration) Regulation 1998
Roads (General) Regulation 2000
Search Warrants Regulation 1999
Security Industry Regulation 1998
Swimming Pools Regulation 1998
Sydney Harbour Foreshore Authority Regulation 1999
Sydney Water Catchment Management (General) Regulation 2000
Sydney Water Regulation 2000
Tow Truck Industry Regulation 1999
Transferred Officers Extended Leave Regulation 1998
Weapons Prohibition Regulation 1999
Workplace Video Surveillance Regulation 1999

Department of Infrastructure, Planning and Natural Resources

Infrastructure and Planning



New South Wales

State Environmental Planning Policy (ARTC Rail Infrastructure) Amendment 2005

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning.

FRANK SARTOR, M.P.,
Minister for Planning

Clause 1 State Environmental Planning Policy (ARTC Rail Infrastructure)
Amendment 2005

State Environmental Planning Policy (ARTC Rail Infrastructure) Amendment 2005

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (ARTC Rail Infrastructure) Amendment 2005*.

2 Commencement

This Policy commences on the commencement of the *Environmental Planning and Assessment Amendment (ARTC) Regulation 2005*.

3 Aims of Policy

The aim of this Policy is to make it clear that *State Environmental Planning Policy No 14—Coastal Wetlands* and *State Environmental Planning Policy No 26—Littoral Rainforests* do not affect the carrying out of development by the Australian Rail Track Corporation Limited for the purposes of rail infrastructure activities if the development is part of a larger project substantially relating to matters outside the operation of those Policies.

4 Land to which Policy applies

This Policy applies to the State.

5 Amendment of State Environmental Planning Policy (ARTC Rail Infrastructure) 2004

State Environmental Planning Policy (ARTC Rail Infrastructure) 2004 is amended as set out in Schedule 1.

State Environmental Planning Policy (ARTC Rail Infrastructure)
Amendment 2005

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 3)

Clause 5 Relationship with other environmental planning instruments

Omit clause 5 (2) (b). Insert instead:

- (b) is part of a project for the purposes of ARTC rail infrastructure facilities that consists substantially of development that is not development to which either of those State Environmental Planning Policies applies (for example, because it is substantially carried out on other land or substantially relates to development not regulated by those Policies).



New South Wales

Baulkham Hills Local Environmental Plan 2005

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (P00/00458/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Baulkham Hills Local Environmental Plan 2005

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Baulkham Hills Local Environmental Plan 2005

Clause 1

Preliminary

Part 1

Baulkham Hills Local Environmental Plan 2005

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of plan

This plan is *Baulkham Hills Local Environmental Plan 2005*.

2 Aims of plan and objectives for development

Explanatory note

This plan restates the provisions of *Baulkham Hills Local Environmental Plan 1991* and incorporates the amendments that have been made to it so as to provide a coherent statement of planning intent for Baulkham Hills, bring those provisions up to date and ensure consistency with all relevant and current legislation.

- (1) The aims of this plan are:
 - (a) with respect to the natural and built environment of the Baulkham Hills local government area, to conserve and enhance the natural and built environment of Baulkham Hills for present and future generations, and
 - (b) with respect to the community of that area, to encourage a strong sense of community identity and economic well being throughout Baulkham Hills through the development of local communities that are safe, liveable and offer a diversity of land use and economic opportunity, and
 - (c) with respect to use of resources within that area, to promote the efficient utilisation of land, services and support facilities in existing urban areas and to provide for the orderly growth of new urban areas that promote a high level of residential amenity, and
 - (d) with respect to flexibility, to create a broad framework of controls and allow the opportunity for more detailed provisions relating to matters of local significance to be contained in development control plans.

Clause 2 Baulkham Hills Local Environmental Plan 2005

Part 1 Preliminary

- (2) The objectives for development of this plan are:
- (a) with respect to the natural and built environment of the Baulkham Hills local government area, that development should:
 - (i) recognise and implement the principles of ecologically sustainable development, and
 - (ii) protect and enhance the area's biodiversity, and
 - (iii) ensure that environmentally sensitive areas are suitably protected, and
 - (iv) address all natural hazard concerns, including flooding, landslip, subsidence, salinity, tidal inundation, land contamination and acid sulfate soils, and
 - (v) respect, improve and integrate with the local character of the locality in which it is carried out, and
 - (vi) rehabilitate the natural environment where damaged by previous activities, and
 - (vii) have regard to the land uses that form the rural and urban environment of the Shire, and
 - (viii) minimise the use of non-renewable resources and maximise the use of renewable resources, and
 - (ix) incorporate energy saving mechanisms and water saving mechanisms, and
 - (x) minimise waste and pollution, and
 - (xi) promote buildings designed for adaptive re-use, and
 - (xii) conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items and heritage conservation areas, and
 - (xiii) conserve and enhance the natural, cultural and environmental heritage of the area, and
 - (xiv) positively contribute to the retention and maintenance of items of indigenous and non-indigenous heritage, and
 - (b) with respect to the community of that area, that development should:
 - (i) integrate land use and improve access to open space, employment opportunities, public transport, community facilities and commercial services, and
 - (ii) reinforce the retail and commercial centres hierarchy within the area, and
 - (iii) provide opportunities for tourism and recreational development in appropriate locations, and

Baulkham Hills Local Environmental Plan 2005

Clause 3

Preliminary

Part 1

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- (iv) provide for home-based activities that are compatible with the character and amenity of the neighbourhood or place in which they are to be located, and
 - (v) maximise positive social impacts and minimise potentially detrimental social impacts, and
 - (vi) provide informal surveillance of public spaces, and
 - (vii) optimise the shared use of streets and parking facilities, while improving or creating an efficient pedestrian environment, and
- (c) with respect to use of resources within that area, development should:
- (i) protect localities from inappropriate development and ensure that local amenity is maintained and enhanced, and
 - (ii) provide choice in housing for residents, and
 - (iii) ensure that urban housing type varies and is designed and constructed in a manner that can accommodate (or be adapted to the needs of) a variety of household types, and
 - (iv) contribute to the synergy between land use activities.

3 Land to which plan applies

- (1) This plan applies to the land within the local government area of Baulkham Hills as shown on the map, with boundaries as indicated on the map.
- (2) However, this plan does not apply to any land shown as “Deferred” on the map.

4 Relationship to other environmental planning instruments

This plan repeals:

- (a) *Baulkham Hills Local Environmental Plan 1991*, and
- (b) such other local environmental plans and deemed environmental planning instruments as, immediately before the commencement of this plan, applied to the land to which this plan applies, but to the extent only to which those plans and instruments applied to that land.

5 Definitions

- (1) In this plan:
acid sulfate soils means actual or potential acid sulfate soils, as defined in the *Acid Sulfate Soils Assessment Guidelines*.

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| Clause 5 | Baulkham Hills Local Environmental Plan 2005 |
| Part 1 | Preliminary |

Acid Sulfate Soils Assessment Guidelines means the *Acid Sulfate Soils Assessment Guidelines* as published by the NSW Acid Sulfate Soils Management Advisory Committee and adopted for the time being by the Director-General.

additions and alterations related to an existing dwelling-house means additions or alterations to a lawfully erected dwelling-house, including garages, swimming pools and outbuildings or structures incidental to a dwelling-house, but does not include tennis courts, squash courts or the like.

advertisement has the same meaning as in the Act.

advertising structure has the same meaning as in the Act.

agricultural products establishment means a building or place used for the sale of goods or materials used in agricultural production but, in the Table to clause 13, does not include a building or place elsewhere specifically defined in this clause.

agriculture includes horticulture and the use of land for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, and the growing of fruit, vegetables and the like but, in the Table to clause 13, not for the purpose of intensive animal industries or intensive horticulture establishments.

airline terminal means a building or place used for the assembly of passengers and goods prior to the transport of those passengers and goods either to or from an airport or an aerodrome.

amusement park means a place where amusements or mechanical or electronic entertainments are permanently situated.

animal boarding, breeding and training establishment means a building or place used for boarding, breeding, training, keeping or caring for animals, otherwise than for domestic purposes.

apartment building means a building containing 3 or more dwellings where each dwelling does not necessarily have direct access to private open space at natural ground level.

archaeological site means a site identified in Schedule 1 as an archaeological site which may include one or more relics.

attached dual occupancy means the erection of two dwellings, or the modification of an existing dwelling to create a second dwelling, under a common roof on a single allotment of land.

bed and breakfast establishment means an establishment in an existing dwelling-house that:

- (a) has the owner as a permanent resident living in the dwelling-house, and
- (b) provides temporary accommodation, up to a maximum of 30 calendar days, for the short-term traveller, and

Baulkham Hills Local Environmental Plan 2005

Clause 5

Preliminary

Part 1

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- (c) offers no more than three guest rooms, and accommodation for no more than six guests, at any one time, and
 - (d) provides one off-street parking space per guest room, and
 - (e) offers meals only for guests, and
 - (f) serves only non-alcoholic beverages with meals, and
 - (g) does not contain cooking facilities in guest rooms for preparation of meals by guests, and
 - (h) exhibits a notice, advertisement or sign that does not exceed 0.6m², and is located adjacent to the front property boundary, and
 - (i) complies with all relevant requirements of the *Building Code of Australia*, and
 - (j) has a smoke detection system in the building in accordance with requirements of AS 3786—1993, *Smoke alarms* that is:
 - (i) connected to a permanent 240V power supply, and
 - (ii) provided with a battery backup to activate the alarm unit in the event of failure of the permanent power supply, and
 - (k) has a fire extinguisher and a fire blanket in the kitchen.

bulky goods retailing means the retailing of large goods that are of such a size and shape as to require:

- (a) a large area for handling, storage or display, and
- (b) easy and direct vehicular access to enable the goods to be collected by customers after sale, and
- (c) a floor area, per unit or separate occupancy, of not less than 500m²,

but does not include the retailing of food, clothing, books or the like.

bus depot means a building or place used for the servicing, repair and garaging of buses and other vehicles used for the purposes of a bus transport undertaking.

bus station means a building or place used as a terminal for the assembly and dispersal of passengers travelling by bus.

bush fire fighting establishment means a building used for the operation of a rural fire brigade formed or organised under section 19 of the *Rural Fires Act 1997*.

bush fire hazard reduction means a reduction or modification (by controlled burning, or by mechanical or manual means) of material that constitutes a bush fire hazard.

bushland means vegetation that is either a remainder of the natural vegetation on the land or, if altered, is still representative of the structure and/or floristics of the natural vegetation.

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| Clause 5 | Baulkham Hills Local Environmental Plan 2005 |
| Part 1 | Preliminary |

car repair station means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery, not being motor body manufacture and repair.

caravan park means land (including a camping ground) on which caravans (or other moveable dwellings) are, or are to be, installed or placed.

caretaker's dwelling means a dwelling occupied for the purpose of providing security or maintenance services to the land on which the dwelling stands, where the land is owned by the Council for a public purpose.

child care centre means a building or place used to provide a child care service within the meaning of the *Children (Care and Protection) Act 1987*.

civic centre means a building or place:

- (a) that is owned and controlled by the Council, and
- (b) that is used for the benefit of the community, and
- (c) that may include commercial premises, community facilities, educational establishments, entertainment centres and reception establishments,

and includes a building or place that is owned and controlled by the Council and is used by the Council as an administrative centre.

classified road means a road or work, or a proposed road or work, declared under Division 1 of Part 5 of the *Roads Act 1993* to be:

- (a) a main road, or
- (b) a secondary road, or
- (c) a State highway, or
- (d) a tourist road, or
- (e) a State work, or
- (f) a freeway, or
- (g) a tollway, or
- (h) a transitway, or
- (i) a controlled access road,

and shown on the map by a continuous blue centreline.

club means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes, whether of the same or a different kind, and whether or not the whole or a part of the building is the premises of a club registered under the *Registered Clubs Act 1976*.

Baulkham Hills Local Environmental Plan 2005

Clause 5

Preliminary

Part 1

commercial premises means a building or place used as an office or for other business or commercial purposes but, in the Table to clause 13, does not include a building or place elsewhere specifically defined in this clause or a building or place used for a land use elsewhere specifically defined in this clause.

community facility means a building or place owned or controlled by the Council and used for the purpose of providing facilities comprising or relating to any one or more of the following:

- (a) a public library,
- (b) public health services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding,
- (g) a public building,
- (h) a restaurant,

or used for any other like purpose.

conservation management plan means a document, prepared in accordance with the requirements of the NSW Heritage Office, that establishes the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

convenience store means a shop that, at 1 March 1991, was a service station and at which:

- (a) a variety of goods, including foodstuffs, personal care products, household cleaning products and small items of hardware are sold, and
- (b) petrol, oil and petroleum products are sold (whether or not other goods are also sold), and
- (c) other goods may be made available for hire within an ancillary area.

creek means the path of a permanent or intermittent flow of water.

dam means a barrier, embankment or excavated earth structure used to retain water for agricultural, domestic or commercial purposes.

demolish a heritage item, or a building, work, relic, tree or place within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic, tree or place.

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| Clause 5 | Baulkham Hills Local Environmental Plan 2005 |
| Part 1 | Preliminary |

detached dual occupancy means the erection of two free-standing dwellings, or the erection of a second free-standing dwelling, on a single allotment of land.

dwelling means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

dwelling-house means a building containing one, but not more than one, dwelling.

educational establishment means a building or place used as a school, university, college, technical college, academy, lecture hall, gallery or museum, but does not include a building used wholly or principally as an institution or child care centre.

environmental protection works means a structure or work that provides for:

- (a) environmental management and restoration facilities, such as bush restoration, wetlands restoration, erosion and run-off prevention works or the like, or
- (b) nature study or display facilities, such as board walks, observation decks, bird hides or the like.

environmentally integrated housing means:

- (a) the integrated design and construction of dwellings with a resultant maximum yield of dwellings and lots that is consistent with the subdivision potential of the land, which may be indicated in a development control plan, and
- (b) the protection of all environmentally significant or sensitive areas (normally as common or neighbourhood property) of land, including natural drainage channels, important vegetative and topographic features, geotechnical hazard areas and the like, by the integration of buildings and works with the environment.

exhibition home means an unoccupied dwelling-house used for display purposes.

exhibition village means two or more exhibition homes and includes other associated places and buildings, such as an office used for house and land sales, car parking, site offices, a place set aside for advisory services and the like.

existing holding means the land comprised in an allotment, portion or parcel of land that was in existence as a separate allotment, portion or parcel of land prior to 7 May 1988.

Baulkham Hills Local Environmental Plan 2005

Clause 5

Preliminary

Part 1

extractive industry means:

- (a) the winning of extractive material, or
- (b) an industry or undertaking, not being carried out at a mine, which depends for its operations on the winning of extractive material from the land on which it is carried on.

extractive material means sand, gravel, clay, turf, soil, rock, stone or any similar substance.

filling of land means filling of land by raising the natural ground level through deposition of clean (uncontaminated) excavated natural, earthy material, such as topsoil, lime, clay or sand, above the natural or pre-existing ground level, in association with agriculture or with a land use for which consent has been granted, where the landfill deposited exceeds one metre in depth or affects a total area of 100m² or more, but does not include top dressing to an average depth of 50mm or less.

firewood establishment means a building or place used for the sale of firewood (or for the splitting of firewood, if firewood is sold from the building or place).

flood standard means the 1% probability flood (as referred to in the *Floodplain Management Manual: the management of flood liable land* published by the NSW Government in 2001).

forestry includes arboriculture, silviculture, forest protection, the cutting, dressing and preparation (otherwise than in a sawmill) of wood and other forest products and the establishment of roads required for the removal of wood and forest products or for forest protection.

generating works means a building or place used for the purpose of making or generating gas, electricity or other forms of energy.

gross floor area of a building means the sum of the areas of each floor of the building, where the area of each floor is taken to be the area within the outer face of the external enclosing walls measured at a height of 1,400 millimetres above each floor level, but does not include:

- (a) columns, fin walls, sun control devices and any elements, projections or works outside the general lines of the outer face of the external wall, or
- (b) lift towers, cooling towers, machinery and plant rooms and ancillary storage space and vertical air-conditioning ducts, or
- (c) car-parking needed to meet any requirements of the Council and any internal access to it, or
- (d) space for the loading and unloading of goods.

guest house means a building or place (not being licensed to sell liquor), where accommodation, together with meals and laundry facilities, are provided, but only to residents of the guest house.

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| Clause 5 | Baulkham Hills Local Environmental Plan 2005 |
| Part 1 | Preliminary |

habitat tree means any tree which has hollows in the trunk or limbs that is suitable habitat for endangered fauna including birds, arboreal marsupials or bats or is a support for locally indigenous or endemic epiphytic endangered plants.

health care premises means a room or a number of rooms forming the whole or part of, or attached to or within the curtilage of, an existing dwelling-house used by a total of not more than three legally qualified:

- (a) medical practitioners, or dentists within the meaning of the *Dental Practice Act 2001*, or
- (b) health care professionals,

to practise in not more than a total of 3 rooms the profession of medicine, dentistry or health care and who employ a total of not more than 3 employees in connection with all of their practices at any one time.

health care professional means a person who renders professional health services to members of the public, and is:

- (a) a podiatrist registered under the *Podiatrists Act 1989* or *Podiatrists Act 2003*, or
- (b) a chiropractor registered under the *Chiropractors Act 2001*, or
- (c) an osteopath registered under the *Osteopaths Act 2001*, or
- (d) a physiotherapist registered under the *Physiotherapists Act 2001*, or
- (e) an optometrist registered under the *Optometrists Act 2002*, or
- (f) any other person professionally registered, pursuant to an Act of Parliament, to dispense health care.

height, in relation to a building, means the greatest distance measured vertically from any point on the ceiling of the topmost floor of the building to the natural ground level immediately below that point.

helipad means an area or place not open to public use that is set apart for the taking off and landing of helicopters.

heliport means an area or place open to public use that is set apart for the taking off and landing of helicopters, and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

heritage conservation area means an area of land that is shown edged heavy black and marked "Conservation Area" on the map and includes buildings, works, relics, trees and places situated on or within the land.

Heritage Council means the Heritage Council of New South Wales constituted under the *Heritage Act 1977*.

Baulkham Hills Local Environmental Plan 2005

Clause 5

Preliminary

Part 1

heritage impact statement means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or of a building, work, relic, tree or place within a heritage conservation area, and an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

heritage item means a building, work, archaeological site or place of heritage significance described in Schedule 1.

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

home activity means any activity or occupation carried on for trade, sale or other gain in a building or a room or a number of rooms forming part of, or ancillary to, a dwelling (not being health care premises) where:

- (a) the activity or occupation does not occupy a total floor area of more than 50m², and
- (b) the dwelling situated on the land is principally used as a domicile, and
- (c) the activity or occupation does not:
 - (i) interfere with the amenity of the locality by reason of pollution, or
 - (ii) involve exposure to view from any public place of any unsightly matter, or
 - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or
 - (iv) involve the employment of persons other than residents of the dwelling, or
 - (v) involve the exhibition of any notice, advertisement or sign (other than a non-illuminated notice or sign, that would fit within a rectangle 1.2 metres in length and 0.6 metres in height, that is exhibited on that dwelling or land to indicate the names and occupations of the residents of the dwelling), or
 - (vi) result in a significant increase in traffic, and
- (d) the goods made or produced, as a result of the activity or occupation, are not displayed or sold from the property, and
- (e) a minimum of one off-street car parking space is provided per activity or occupation carried on if the property is in an urban locality, and
- (f) there is a maximum of one such activity or occupation per dwelling.

Clause 5 Baulkham Hills Local Environmental Plan 2005

Part 1 Preliminary

home business means a business carried out, or partly carried out, in a dwelling (not being health care premises) or within the land on which the dwelling is situated, by the permanent residents of the dwelling, where:

- (a) the business involves employment of not more than one person, at any one time, in addition to the permanent residents, and
- (b) the business does not occupy a total floor area of more than 50m², and
- (c) the business does not:
 - (i) interfere with the amenity of the locality by reason of pollution, or
 - (ii) involve exposure to view from any public place of any unsightly matter, or
 - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or
 - (iv) involve the exhibition of any notice, advertisement or sign (other than a non-illuminated notice or sign, that would fit within a rectangle 1.2 metres in length and 0.6 metres in height, that is exhibited on that dwelling or land to indicate the names and occupations of the residents of the dwelling), or
 - (v) result in a significant increase in traffic, and
- (d) the goods made or produced in the building, room or rooms, as a result of the business, are not displayed or sold from the property, and
- (e) there is a maximum of one such business per dwelling.

home industry means an industry carried out in a building (not being health care premises) within the site area of a dwelling, by the permanent residents of the dwelling where:

- (a) the industry involves the employment of not more than 2 persons, at any one time, in addition to the permanent residents, and
- (b) the industry does not occupy a total floor area of more than 100m², and
- (c) the industry does not:
 - (i) interfere with the amenity of the locality by reason of pollution, or
 - (ii) involve exposure to view from any public place of any unsightly matter, or
 - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or

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(iv) involve the exhibition of any notice, advertisement or sign (other than a non-illuminated notice or sign that would fit within a rectangle 1.2 metres in length and 0.6 metres in height and exhibited on that dwelling or land to indicate the names and occupations of the residents of the dwelling), or

(v) result in a significant increase in traffic, and

(d) there is a maximum of one such industry per property.

hospital means building or place used for the purpose of providing professional health services (including preventative care, diagnosis, medical or surgical treatment and counselling) to people admitted as inpatients of the building or place, whether or not outpatients are also cared for or treated there.

hotel means any premises specified in a hotelier's licence granted under the *Liquor Act 1982*.

industry means any trade, manufacturing, business, project or occupation in which persons work.

institution means:

- (a) a building used wholly or principally as a home or other establishment for developmentally disabled persons, or
- (b) a hospital within the meaning of the *Mental Health Act 1990*, or
- (c) a penal or reformatory establishment.

integrated housing means:

- (a) the subdivision of land into two or more allotments, and
- (b) the erection of one or more dwellings on each allotment so created,

where the siting and design of each dwelling occurs prior to the determination of the subdivision boundaries but, in the Table to clause 13, does not include a form of development elsewhere specifically defined in this clause.

intensive animal industry means agricultural animal production where cattle, horses, goats, poultry or other livestock are held in buildings or in a confined area for feeding and, without limiting the generality of the above, may involve the use of:

- (a) a beef cattle feedlot, or
- (b) a dairy farm, or
- (c) a piggery, including a free-range piggery, or
- (d) a poultry farm, including a free-range poultry farm, or
- (e) a worm farm, or

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- (f) a building or place used for fish farming (that may consist of or include farming crustaceans),

but does not include a building or place used for keeping livestock intended solely for personal consumption or enjoyment by the owner or occupier of the building or place.

intensive horticulture establishment means a place used for horticulture production at which plants or fungi are grown using an intensive agricultural system, such as hydroponics, housing, climate control system, crop protection system or equipment and, without limiting the generality of the above:

- (a) may consist of or include a shed, greenhouse or poly housing, and
 (b) may involve automated heating, irrigation or sprinkler systems, or the use of shade cloth, hail netting or animal-scaring devices,

but does not include a place used to grow produce for personal household consumption or enjoyment.

landscape supply establishment means a building or place used for both the storage and sale of a range of materials used for landscaping purposes.

leisure facility means a building or place used as a health farm, religious retreat house, rest home, youth camp or the like but, in the Table to clause 13, does not include a building or place elsewhere specifically defined in this clause.

light industry means an industry, not being an offensive or hazardous industry or home industry, in which the processes carried on, the transportation involved, or the machinery or materials used do not significantly or adversely affect the environment or the amenity of the neighbourhood.

liquid fuel depot means a depot or place used for the bulk storage of petrol, oil, petroleum or other flammable liquid for wholesale distribution.

maintenance means the ongoing protective care of a heritage item or a building, work, archaeological site, relic, tree or place within a heritage conservation area. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

medical practitioners' surgery means a building or place used by not more than three legally qualified medical practitioners who may employ ancillary staff at the building or place in connection with their practice.

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mine means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef on, in or by which any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method, and includes any place on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

motel means a building or buildings used for the short-term accommodation of travellers, whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

motor showroom means a building or place used for the display or sale of motor vehicles, caravans or boats, whether or not accessories for motor vehicles, caravans or boats are sold or displayed there.

motor vehicle servicing means the servicing, repair, maintenance or otherwise of motor vehicles, and includes tyre servicing, muffler repairing, auto electrical repairing and the like.

offensive or hazardous industry means an industry that, by reason of the processes involved, or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings or activities.

office warehouse means premises used for the purposes of providing office floor space in conjunction with the handling, storage, display and distribution of goods.

place of assembly means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl, dance-party venue, or any other building or place of a like character used as such and whether used for the purposes of gain or not but, in the Table to clause 13, does not include a building or place elsewhere specifically defined in this clause.

place of worship means a place used for the purposes of public religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group.

plant and building equipment hire means a building or place where plant and equipment are stored, displayed and hired out or leased to persons for intermittent use, but does not include premises used for the purpose of hiring home entertainment equipment, such as stereo sound systems, televisions, video cassette recorders, video tapes and the like.

prescribed materials, in relation to a site or building, means materials of low reflective quality that blend with the landscape of the site and its surroundings.

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public building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, the Council or an organisation established for public purposes.

public utility undertaking means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any government department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings, or
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, county council, government department, corporation, firm or authority carrying on the undertaking.

reception establishment means a building or place used for the purpose of wedding receptions, birthday parties and the like, where admission is by private invitation, but, in the Table to clause 13, does not include a building or place elsewhere specifically defined in this clause.

recreation area means:

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used to provide facilities for recreational activities that promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:
 - (i) the Council, or
 - (ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or a showground.

recreation facility means a building or place used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain but, in the Table to clause 13, does not include a building or place elsewhere specifically defined in this clause.

relic means:

- (a) any deposit, object or material evidence (that may consist of human remains) that is more than 50 years old relating to the use or settlement, not being Aboriginal habitation, of the Baulkham Hills local government area and that is a fixture or is wholly or partly within the ground, or

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- (b) any deposit, object or material evidence (that may consist of human remains) of any age relating to Aboriginal habitation of that area.

renewable energy facility means a facility for the production of energy from solar, wind, water or other renewable sources.

research establishment means a laboratory or other place where scientific or technological development or research is carried out.

restaurant means a building or place the principal purpose of which is the provision of food to people for consumption on the premises.

retail plant nursery means a building or place used for both the growing and retail selling of plants, whether or not ancillary products are also sold there, but does not include a wholesale plant nursery.

road means a public thoroughfare used for the passage of vehicles, pedestrians or animals.

road transport terminal means a building or place used for the principal purpose of the bulk handling of goods for transport by road, including facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles.

roadside stall means a building or place, not exceeding 20m² in floor space or area respectively, where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

rural industry means handling, treating, processing, packing or transporting of primary products, and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

rural workers' dwelling means a dwelling-house that is situated on land on which there is already erected a dwelling-house and that is occupied by a person who is engaged in the use of the land for the purposes of agriculture, intensive animal industries or intensive horticulture establishments.

sawmill means a mill handling, cutting and processing timber from logs or baulks.

service station means a building or place used for the fuelling of motor vehicles and involving the sale by retail of petrol, oil and other petroleum products and the ancillary sale of a limited range of food items for the convenience of patrons, providing the building or place is also used for any one or more of the following purposes:

- (a) the sale by retail of spare parts and accessories for motor vehicles,
- (b) the washing and greasing of motor vehicles,
- (c) the installation of accessories for motor vehicles,

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- (d) the repairing and servicing of motor vehicles (other than repairing and servicing that involves body building, panel beating or spray painting).

shop means a building or place used for the purpose of selling, whether by retail or auction, or hiring of, or displaying for the purpose of the selling or hiring of, items (whether goods or materials), but does not include a building or place elsewhere specifically defined in this clause.

shop-top housing means residential development in conjunction with commercial and/or retail development where the commercial or retail usage occurs on the ground floor only.

stock and sale yard means a building or place used for the purpose of offering animals for sale, and includes a public cattle market.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network (such a network being a system, or series of systems, that carries or is capable of carrying communications by means of unguided electromagnetic energy), or
- (b) any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure or thing used, or intended for use, in or in connection with a telecommunications network,

but does not include:

- (c) facilities listed in the Schedule to the *Telecommunications (Low-impact Facilities) Determination 1997* of the Commonwealth, or
- (d) facilities used for an activity that a carrier may engage in despite a law of a State or Territory pursuant to the *Telecommunications Act 1997* of the Commonwealth.

the Act means the *Environmental Planning and Assessment Act 1979*.

the Council means the Council of Baulkham Hills.

the map means the map marked "Baulkham Hills Local Environmental Plan 2005", as amended by the maps, or sheets of maps, marked as follows:

tourist facility means an establishment providing facilities for holiday accommodation or recreation, and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, house boat, marina, motel, playground, restaurant, water sport facilities or a club used in conjunction with any such activity.

town-house means one of a group of 3 or more two-storey dwellings, which may or may not be attached, on a single allotment of land or on adjacent allotments that constitute a single site, where each dwelling has a separate entrance accessible from an outside area and direct access to private open space at natural ground level.

Baulkham Hills Local Environmental Plan 2005

Clause 6

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transport terminal means a building or place used as an airline terminal, a road transport terminal, a bus station or a bus depot.

tree means a perennial plant with a self-supporting woody stem that has a spread of more than 3 metres, or a height of more than 5 metres, and measures more than 150 millimetres in diameter measured 1 metre up from the ground.

utility installation means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

veterinary establishment means a building or place used for the purpose of the medical or surgical treatment of animals.

villa means one of a group of 3 or more single-storey dwellings, which may or may not be attached, on a single allotment of land or on adjacent allotments that constitute a single site, where each dwelling has a separate entrance accessible from an outside area and direct access to private open space at natural ground level.

warehouse means a building or place used for the storage of goods, merchandise or materials, pending sale and distribution to persons engaged in the retail trade.

wholesale plant nursery means a building or place used for both the growing and wholesaling of plants.

- (2) In this plan:
- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose, and
 - (b) a reference to a map is a reference to a map deposited in the office of the Council, except as otherwise stated, and
 - (c) a reference to land within a zone specified in the Table to clause 13 is a reference to land shown on the map in the manner specified in clause 12 as the means of identifying land of the zone so specified, and
 - (d) any explanatory notes to this plan are intended to assist the reader to understand this plan but do not form part of this plan.

6 Adoption of model provisions

The *Environmental Planning and Assessment Model Provisions 1980*, except for clauses 4, 5, 7, 8, 13, 15–17, 19–28, 33, 34 and 35 (c) are adopted for the purposes of this plan.

7 Consent authority

The Council is the consent authority for the purposes of this plan, subject to the Act.

Clause 8 Baulkham Hills Local Environmental Plan 2005

Part 1 Preliminary

8 Exempt development

- (1) Development listed in Schedule 2 is *exempt development*, but only if:
 - (a) it complies with the requirements for exemption set out for the development in that Schedule, and
 - (b) it is carried out in a zone in which exempt development is specifically allowed by the Table to clause 13, and
 - (c) it meets the other requirements for exempt development made by the Act and this clause.
- (2) Development is not exempt development if it is carried out on any of the following land:
 - (a) land that is subject to an interim heritage order or listed on the State Heritage Register under the *Heritage Act 1977*,
 - (b) land that is, or is the site of, a heritage item for the purposes of this plan or that is a conservation area for those purposes,
 - (c) an Aboriginal place under the *National Parks and Wildlife Act 1974*,
 - (d) land (not being land within Zone 2 (d) under this plan) that is zoned, or otherwise identified, under this or any other environmental planning instrument for the protection or preservation of habitat, plant communities or wetlands,
 - (e) an aquatic reserve under the *Fisheries Management Act 1994*,
 - (f) Crown land, including land reserved or dedicated for a public purpose under the *Crown Lands Act 1989*,
 - (g) bush fire prone land, land below the flood standard, any land with a gradient in excess of 20% and any land within 40 metres of a stream, river or watercourse.
- (3) Exempt development must comply with the conditions of any prior development consent in force in respect of the land on which the development is to be carried out.
- (4) Any provision of Part 3 that provides development is not exempt development prevails over this clause.

9 Complying development

- (1) Development identified as complying development in the Table to clause 13, is *complying development*, but only if:
 - (a) it is local development (and, consequently, it is not State significant development), and
 - (b) it is not an existing use, as defined in section 106 of the Act, and

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Preliminary

Part 1

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- (c) it is carried out in a zone for which it is identified as complying development by the Table to clause 13, and
 - (d) it complies with the requirements applied to the development by the Council's four development control plans for residential, employment, business and rural development, respectively, as approved by the Council on 2 May 2000, and
 - (e) it meets the other requirements made for complying development by the Act and this clause.
- (2) Development is not complying development if it is carried out on any of the following land:
- (a) land that is subject to an interim heritage order or listed on the State Heritage Register under the *Heritage Act 1977*,
 - (b) land that is, or is the site of, a heritage item for the purposes of this plan or that is a conservation area for those purposes,
 - (c) an Aboriginal place under the *National Parks and Wildlife Act 1974*,
 - (d) land (not being land within Zone 2 (d) under this plan) that is zoned, or otherwise identified, under this or any other environmental planning instrument for the protection or preservation of habitat, plant communities or wetlands,
 - (e) an aquatic reserve under the *Fisheries Management Act 1994*,
 - (f) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
 - (g) bush fire prone land, land below the flood standard, any land with a gradient in excess of 20% and any land within 40 metres of a stream, river or watercourse.
- (3) Complying development must comply with the conditions of any development consent in force in respect of the land on which the development is to be carried out.
- (4) Any provision of Part 3 that provides development is not complying development prevails over this clause.

10 Notifiable development

Unless it is also complying development, the provisions of section 79 of the Act apply to and in respect of development identified in the Table to clause 13 as **notifiable development** in the same way as those provisions apply to and in respect of designated development.

Clause 11 Baulkham Hills Local Environmental Plan 2005

Part 1 Preliminary

11 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within any zone to be carried out in accordance with this plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) Nothing in subclause (1) affects the rights or interests of any public authority under any registered instrument.
- (3) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1) and (2).

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Clause 12

General restrictions on development of land

Part 2

Part 2 General restrictions on development of land

12 Zones indicated on the map

For the purposes of this plan, land to which this plan applies is within a zone specified below if the land is shown on the map in the manner specified below for that zone:

Zone 1 (a) (Rural 1 (a) Zone)—coloured light brown and lettered “1 (a)”.

Zone 1 (b) (Rural 1 (b) Zone)—coloured light brown, edged red and lettered “1 (b)”.

Zone 1 (c) (Rural 1 (c) Zone)—coloured light brown, edged red and lettered “1 (c)”.

Zone 1 (d) (Rural 1 (d) Zone)—coloured light brown, edged red and lettered “1 (d)”.

Zone 2 (a) (Residential 2 (a) Zone)—coloured light scarlet, edged red and lettered “2 (a)”.

Zone 2 (a1) (Residential 2 (a1) Zone)—coloured light scarlet, edged red and lettered “2 (a1)”.

Zone 2 (a2) (Residential 2 (a2) Zone)—coloured light scarlet, edged red and lettered “2 (a2)”.

Zone 2 (a3) (Residential 2 (a3) Zone)—coloured light scarlet, edged red and lettered “2 (a3)”.

Zone 2 (a4) (Residential 2 (a4) (Rouse Hill Regional Centre) Zone)—coloured dark scarlet and lettered “2 (a4)”.

Zone 2 (b) (Residential 2 (b) Zone)—coloured light scarlet and lettered “2 (b)”.

Zone 2 (c) (Residential 2 (c) (Tourist Village) Zone)—coloured light scarlet and lettered “2 (c)”.

Zone 2 (d) (Residential 2 (d) (Protected) Zone)—coloured light scarlet, edged red and lettered “2 (d)”.

Zone 2 (e) (Residential 2 (e) Zone)—coloured light scarlet, edged red and lettered “2 (e)”.

Zone 3 (a) (Business 3 (a) (Retail) Zone)—coloured light blue and lettered “3 (a)”.

Zone 3 (b) (Business 3 (b) (Commercial) Zone)—coloured medium blue and lettered “3 (b)”.

Zone 3 (c) (Service Business 3 (c) Zone)—coloured dark blue and lettered “3 (c)”.

Zone 4 (b) (Light Industry 4 (b) Zone)—coloured purple and lettered “4 (b)”.

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Part 2 General restrictions on development of land

Zone 5 (a) (Special Uses 5 (a) (Existing and Proposed) Zone)—coloured yellow, edged red, with black lettering and lettered “5 (a)”.

Zone 5 (b) (Special Uses 5 (b) (Existing and Proposed Roads) Zone)—coloured grey, with classified roads shown by a blue centreline.

Zone 5 (c) (Special Uses 5 (c) (Trunk Drainage and Conservation) Zone)—coloured yellow, edged red, with black lettering and lettered “5 (c)”.

Zone 6 (a) (Open Space 6 (a) (Existing and Proposed Public Recreation) Zone)—coloured light green and lettered “6 (a)”.

Zone 6 (b) (Open Space 6 (b) (Private Recreation) Zone)—coloured dark green and lettered “6 (b)”.

Zone 7 (a) (Environmental Protection 7 (a) (Wetlands) Zone)—coloured orange and lettered “7 (a)”.

Zone 8 (a) (National Parks and Nature Reserves 8 (a) Zone)—edged green and lettered “8 (a)”.

Zone 10 (a) (Employment Area 10 (a) (Business Park) Zone)—coloured light blue and lettered “10 (a)”.

13 Zone objectives and zoning controls

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, consent must not be granted for development unless the consent authority is satisfied that the proposed development:
 - (a) is consistent with one or more of the aims of this plan and any relevant objectives for development, and
 - (b) is not contrary to achieving the objectives of the zone within which it will be carried out.

Note.

The aims and the objectives for development of this plan are set out in clause 2. The objectives of zones are set out in the Table to this clause.

- (3) The Table to this clause lists, for land within each zone:
 - (a) development that may be carried out without development consent, under the heading “Development allowed without consent”, and
 - (b) development that may be carried out only with development consent, under the heading “Development allowed only with consent”, and

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Clause 13

General restrictions on development of land

Part 2

- (c) development that is prohibited, under the heading “Prohibited development”.
- (4) If exempt development is allowed to be carried out in a zone, the kinds of exempt development that may be carried out and the conditions subject to which exempt development may be carried out are set out in clause 8 and Schedule 2.
- (5) Development that may be carried out within a zone only with development consent, and is not complying development, is required to be notified in accordance with clause 10 if it is listed in the Table to this clause as notifiable development for the zone.
- (6) Local development that may be carried out within a zone only with development consent is complying development for the zone if it is listed in the Table to this clause as complying development for the zone, subject to clause 9.

Table

Zone 1 (a) (Rural 1 (a) Zone)

1 Objectives of zone

The objectives are:

- (a) to ensure that existing or potentially productive agricultural land is not withdrawn prematurely from agricultural production, and
- (b) to ensure that development is carried out in a manner that minimises risks from natural hazards and does not unreasonably increase demand for public services and public facilities, and
- (c) to provide land on which development may be carried out that assists the operation and functioning of development in adjoining residential areas, and
- (d) to ensure that development is designed and carried out having regard to adjoining land uses and the natural environment, and
- (e) to ensure that development is designed and carried out having regard to the rural and heritage character of the surrounding area, and
- (f) to ensure that development of land within the zone does not hinder the proper and orderly development of any future urban land.

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| Clause 13 | Baulkham Hills Local Environmental Plan 2005 |
| Part 2 | General restrictions on development of land |

2 Development allowed without consent

Exempt development and development for the purpose of:
agriculture (other than carrying out works for the purpose of dams); bed and breakfast establishments; bush fire hazard reduction; home activities.

3 Development allowed only with consent

Development for the purpose of:
additions and alterations related to an existing dwelling-house; advertising structures; agricultural products establishments; attached dual occupancies; bush fire fighting establishments; caretakers' dwellings; cemeteries; child care centres; clearing of bushland; community facilities; dams; dwelling-houses; environmental protection works; exhibition homes; exhibition villages; filling of land; firewood establishments; health care premises; home businesses; home industries; intensive animal industries; intensive horticulture establishments; landscape supply establishments; leisure facilities; places of worship; public buildings; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; retail plant nurseries; roads; roadside stalls; rural industries (other than poultry processing); rural workers' dwellings; sheds; stables; stock and sale yards; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments; wholesale plant nurseries.

Development for the purpose of the following (which is *notifiable development*):

animal boarding, breeding and training establishments; clubs; educational establishments; forestry; guest houses; hospitals, institutions; reception establishments; research establishments; telecommunications facilities.

Included in this item is the following *complying development*:
erection of sheds between 50m² and 100m² in gross floor area.

4 Prohibited development

Any development not included in item 2 or 3.

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Clause 13

General restrictions on development of land

Part 2

Zone 1 (b) (Rural 1 (b) Zone)

1 Objectives of zone

The objectives are:

- (a) to ensure that existing or potentially productive agricultural land is not withdrawn unnecessarily from agricultural production, and
- (b) to maintain the rural character of the locality without adversely affecting the carrying out of agricultural activities, and
- (c) to ensure that development is carried out in a manner that minimises risks from natural hazards and does not unreasonably increase demand for public services and public facilities, and
- (d) to provide land on which development may be carried out that assists the operation and functioning of development in adjoining residential areas and appropriate locations for tourist facilities, and
- (e) to protect and enhance those areas of particular scenic and environmental value, and
- (f) to ensure that development is designed and carried out having regard to the rural and heritage character of surrounding land, and
- (g) to ensure that development is designed and carried out having regard to adjoining land uses and the natural environment.

2 Development allowed without consent

Exempt development and development for the purpose of:
agriculture (other than dams); bed and breakfast establishments;
bush fire hazard reduction; home activities.

3 Development allowed only with consent

Development for the purpose of:
additions and alterations related to an existing dwelling-house;
advertising structures; agricultural products establishments;
attached dual occupancies; bush fire fighting establishments;
caretakers' dwellings; cemeteries; child care centres; clearing of
bushland; community facilities; convenience stores; dams;
dwelling-houses; environmental protection works; exhibition
homes; exhibition villages; filling of land; firewood
establishments; health care premises; helipads; heliports; home

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| Part 2 | General restrictions on development of land |

businesses; home industries; intensive animal industries; intensive horticulture establishments; landscape supply establishments; leisure facilities; places of worship; public buildings; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; restaurants; retail plant nurseries; roads; roadside stalls; rural industries; rural workers' dwellings; sawmills; sheds; stables; stock and sale yards; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments; wholesale plant nurseries.

Development for the purpose of the following (which is *notifiable development*):

animal boarding, breeding and training establishments; caravan parks; clubs; educational establishments; extractive industries or industries directly associated with, or dependent on, extractive industries; forestry; guest houses; hospitals; institutions; liquid fuel depots; motels; reception establishments; research establishments; service stations; telecommunications facilities; tourist facilities.

Included in this item is the following *complying development*:
erection of sheds between 50m² and 100m² in gross floor area.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 1 (c) (Rural 1 (c) Zone)

1 Objectives of zone

The objectives are:

- (a) to accommodate rural-residential development that is sympathetic to the environment and minimises risks from natural hazards, and
- (b) to provide for a range of activities that are compatible with the rural-residential character of the locality, and
- (c) to ensure that development in the area does not unreasonably increase demand for public services and public facilities, and
- (d) to ensure that development is designed and carried out having regard to adjoining land uses and the natural environment, and

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Clause 13

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- (e) to ensure that development is designed and carried out having regard to the rural and heritage character of the surrounding area, and
- (f) to encourage the preservation of suitable areas for open space purposes.

2 Development allowed without consent

Exempt development and development for the purpose of:

agriculture (other than dams); bed and breakfast establishments; bush fire hazard reduction; home activities.

3 Development allowed only with consent

Development for the purpose of:

additions and alterations related to an existing dwelling-house; advertising structures; attached dual occupancies; bush fire fighting establishments; caretakers' dwellings; cemeteries; child care centres; clearing of bushland; community facilities; dams; dwelling-houses; environmental protection works; exhibition homes; filling of land; health care premises; home businesses; home industries; intensive animal industries; intensive horticulture establishments; landscape supply establishments; leisure facilities; places of worship; public buildings; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; retail plant nurseries; roads; roadside stalls; rural industries (other than poultry processing); rural workers' dwellings; sheds; stables; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments; wholesale plant nurseries.

Development for the purpose of the following (which is *notifiable development*):

animal boarding, breeding and training establishments; clubs; educational establishments; hospitals; research establishments; restaurants; telecommunications facilities.

Included in this item is the following *complying development*:

erection of sheds between 50m² and 100m² in gross floor area.

4 Prohibited development

Any development not included in item 2 or 3.

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Zone 1 (d) (Rural 1 (d) Zone)

1 Objectives of zone

The objectives are:

- (a) to accommodate rural-residential development that is sympathetic with the environment and minimises risks from natural hazards, and
- (b) to ensure that development is compatible with the rural-residential character of the locality, and
- (c) to preserve environmentally sensitive locations, natural areas and the scenic quality of the area, and
- (d) to ensure that development in the area does not unreasonably increase demand for public services and public facilities, and
- (e) to ensure that development is designed and carried out having regard to adjoining land uses and the natural environment, and
- (f) to facilitate the creation of a range of lot sizes to provide variety and choice for housing compatible with the environmental quality and rural character of the locality and the protection of development from the hazards of bush fires.

2 Development allowed without consent

Exempt development and development for the purpose of:

bed and breakfast establishments; bush fire hazard reduction; home activities.

3 Development allowed only with consent

Development for the purpose of:

additions and alterations related to an existing dwelling-house; advertising structures; attached dual occupancies; bush fire fighting establishments; child care centres; clearing of bushland; community facilities; dams; dwelling-houses; environmental protection works; filling of land; home businesses; home industries; places of worship; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; roads; sheds; stables; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments.

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Development for the purpose of the following (which is *notifiable development*):

animal boarding, breeding and training establishments;
telecommunications facilities.

Included in this item is the following *complying development*:
erection of sheds between 50m² and 100m² in gross floor area.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 2 (a) (Residential 2 (a) Zone)

1 Objectives of zone

The objectives are:

- (a) to make general provision for land to be used for the purposes of housing and associated facilities, and
- (b) to provide for development for medium-density housing forms (including apartment buildings, town-houses, villas and the like) in locations close to the main activity centres of the local government area, and
- (c) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
- (d) to allow a range of developments, ancillary to residential uses, that:
 - (i) are capable of integration with the surrounding environment, and
 - (ii) serve the needs of the surrounding population without conflicting with the residential intent of the zone, and
 - (iii) do not place demands on services beyond the level reasonably required for residential use.

2 Development allowed without consent

Exempt development and development for the purpose of:
home activities.

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3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

apartment buildings; attached dual occupancies; convenience stores; detached dual occupancies; environmentally integrated housing; exhibition villages; telecommunications facilities; town-houses; villas.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with neither more than one metre cut nor 0.6 metre fill; single storey dwelling-houses with neither more than one metre cut nor 0.6 metre fill.

4 Prohibited development

Development included in Schedule 3 and development for the purpose of:

bed and breakfast establishments; home industries; office warehouses; places of assembly.

Zone 2 (a1) (Residential 2 (a1) Zone)

1 Objectives of zone

The objectives are:

- (a) to promote a range of housing choices and associated facilities, and
- (b) to identify those localities that are capable of supporting an increase in housing density and population, and
- (c) to increase housing density in locations adjacent to the main activity centres of the local government area, and
- (d) to promote development that encourages public transport use and minimises private traffic generation, and
- (e) to ensure that building form (including alterations and additions) is in character with the surrounding built environment and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment, and

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- (f) to ensure that any development carried out:
 - (i) is compatible with adjoining structures in terms of elevations to the street and building height, and
 - (ii) has regard to the privacy of existing and future residents, and
 - (iii) has regard to the transmission of noise between dwellings, and
 - (iv) minimises energy consumption and utilises passive solar design principles, and
 - (v) retains significant vegetation, and
 - (vi) incorporates landscaping within building setbacks and open space areas, and
 - (vii) incorporates adaptable housing to meet the needs of people with disabilities, and
 - (g) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
 - (h) to allow a range of development, ancillary to residential uses, that:
 - (i) is capable of visual integration with the surrounding environment, and
 - (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
 - (iii) does not place demands on services beyond the level reasonably required for residential use.

2 Development allowed without consent

Exempt development and development for the purpose of:
home activities.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

apartment buildings; attached dual occupancies; convenience stores; detached dual occupancies; environmentally integrated housing; telecommunications facilities; town-houses; villas.

Any other development not included in item 2 or 4.

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Included in this item is the following *complying development*:
additions and alterations related to an existing dwelling-house,
being an addition to the ground floor only, with neither more
than 1 metre cut nor 0.6 metre fill; single-storey dwelling-houses
with neither more than 1 metre cut nor 0.6 metre fill.

4 Prohibited development

Development included in Schedule 3 and development for the
purpose of:

bed and breakfast establishments; home industries; office
warehouses; places of assembly.

Zone 2 (a2) (Residential 2 (a2) Zone)

1 Objectives of zone

The objectives are:

- (a) to provide for the development of town-houses, villas,
and the like in locations close to established public
transport routes and the main activity centres of the local
government area, and
- (b) to ensure that building form (including alterations and
additions) is in character with the surrounding built
environment and does not detract from the amenity
enjoyed by nearby residents or the existing quality of the
environment, and
- (c) to ensure that any development carried out:
 - (i) is compatible with adjoining structures in terms of
elevations to the street and building height, and
 - (ii) has regard to the privacy of existing and future
residents, and
 - (iii) has regard to the transmission of noise between
dwellings, and
 - (iv) minimises energy consumption and utilises
passive solar design principles, and
 - (v) retains significant vegetation, and
 - (vi) incorporates landscaping within building setbacks
and open space areas, and
 - (vii) incorporates adaptable housing to meet the needs
of people with disabilities, and
- (d) to encourage a diversity of dwelling types, and

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- (e) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
 - (f) to allow a range of development, ancillary to residential uses, that:
 - (i) is capable of visual integration with the surrounding environment, and
 - (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
 - (iii) does not place demands on services beyond the level reasonably required for residential use.

2 Development allowed without consent

Exempt development and development for the purpose of:
home activities.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

attached dual occupancies; convenience stores; detached dual occupancies; environmentally integrated housing; telecommunications facilities; town-houses; villas.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with neither more than 1 metre cut nor 0.6 metre fill; single-storey dwelling-houses with neither more than 1 metre cut nor 0.6 metre fill.

4 Prohibited development

Development included in Schedule 3 and development for the purpose of:

apartment buildings; bed and breakfast establishments; home industries; office warehouses; places of assembly.

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Zone 2 (a3) (Residential 2 (a3) Zone)

1 Objectives of zone

The objectives are:

- (a) to make provision for villas on land suitable for increased housing densities which is not within proximity to the town centres, facilities or public transport, and
- (b) to ensure that building form (including alterations and additions) is in character with the surrounding built environment and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment, and
- (c) to ensure that any development carried out:
 - (i) is compatible with adjoining structures in terms of elevations to the street and building height, and
 - (ii) has regard to the privacy of existing and future residents, and
 - (iii) has regard to the transmission of noise between dwellings, and
 - (iv) minimises energy consumption and utilises passive solar design principles, and
 - (v) retains significant vegetation, and
 - (vi) incorporates landscaping within building setbacks and open space areas, and
 - (vii) incorporates adaptable housing to meet the needs of people with disabilities, and
- (d) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
- (e) to maintain the amenity and low density environment of areas predominantly characterised by detached dwelling-houses, and
- (f) to allow a range of development, ancillary to residential uses, that:
 - (i) is capable of visual integration with the surrounding environment, and
 - (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and

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- (iii) does not place demands on services beyond the level reasonably required for residential use.

2 Development allowed without consent

Exempt development and development for the purpose of:
home activities.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

attached dual occupancies; convenience stores; detached dual occupancies; environmentally integrated housing; telecommunications facilities; villas.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with neither more than 1 metre cut nor 0.6 metre fill; single storey dwelling-houses with neither more than 1 metre cut nor 0.6 metre fill.

4 Prohibited development

Development included in Schedule 3 and development for the purpose of:

apartment buildings; bed and breakfast establishments; home industries; office warehouses; places of assembly; town-houses.

Zone 2 (a4) (Residential 2 (a4) (Rouse Hill Regional Centre Zone))

1 Objectives of zone

The objectives are:

- (a) to maximise opportunities for residential development in close proximity to the facilities and services of the Rouse Hill Regional Centre, and
- (b) to promote a range of housing types and styles, and
- (c) to provide opportunities for affordable housing, and
- (d) to integrate residential development with public transport facilities, and

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- (e) to allow a range of ancillary uses, functions and activities capable of:
 - (i) visually integrating with the surrounding environment, and
 - (ii) meeting the needs of the surrounding population without conflicting with the residential amenity and character of the zone.

2 Development allowed without consent

Exempt development and development for the purpose of:
home activities.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

apartment buildings; commercial premises in conjunction with shop-top housing; educational establishments; motels; renewable energy facilities; restaurants; shop-top housing; shops in conjunction with shop-top housing; telecommunications facilities; town-houses; villas.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with neither more than 1 metre cut nor 0.6 metre fill; single storey dwelling-houses with neither more than 1 metre cut nor 0.6 metre fill.

4 Prohibited development

Development included in Schedule 3 (other than development for the purpose of commercial premises in conjunction with shop-top housing, motels, renewable energy facilities; restaurants, shop-top housing and shops in conjunction with shop-top housing) and development for the purpose of:

home industries; places of assembly.

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Zone 2 (b) (Residential 2 (b) Zone)

1 Objectives of zone

The objectives are:

- (a) to identify residential areas of a predominantly single dwelling, low-density character, and to maintain that character, and
- (b) to ensure that new housing respects and complements the heritage and environmental character of surrounding low-density development, and
- (c) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
- (d) to allow a range of development, ancillary to residential uses, that:
 - (i) is visually integrated with development carried out on the land and in the surrounding area, and
 - (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
 - (iii) does not place excessive demand on services.

2 Development allowed without consent

Exempt development and development for the purpose of:
home activities.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

attached dual occupancies; convenience stores; detached dual occupancies; telecommunications facilities.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with neither more than 1 metre cut nor 0.6 metre fill; erection of single-storey dwelling-houses with neither more than 1 metre cut nor 0.6 metre fill.

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4 Prohibited development

Development included in Schedule 3 and development for the purpose of:

apartment buildings; environmentally integrated housing; home industries; office warehouses; places of assembly; town-houses; villas.

Zone 2 (c) (Residential 2 (c) (Tourist Village) Zone)

1 Objectives of zone

The objectives are:

- (a) to provide for tourist-orientated activities and housing development that are appropriately located in the village setting, and
- (b) to provide for a range of uses (primarily support services) serving the needs of the residents and complementary to the scale of neighbouring land uses, and
- (c) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
- (d) to promote development that encourages public transport use and minimises private traffic generation, and
- (e) to allow a range of development, ancillary to residential uses, that:
 - (i) is capable of visual integration with the surrounding environment, and
 - (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
 - (iii) does not place excessive demands on services.

2 Development allowed without consent

Exempt development and development for the purpose of:
home activities.

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3 Development allowed only with consent

Development for the purpose of:

additions or alterations related to an existing dwelling-house; advertising structures; agriculture (other than dams); bed and breakfast establishments; bush fire fighting establishments; bush fire hazard reduction; cemeteries; child care centres; commercial premises; community facilities; convenience stores; dwelling-houses; dwellings; educational establishments; environmental protection works; exhibition homes; filling of land; health care premises; home businesses; medical practitioners' surgeries; places of worship; public buildings; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; research establishments; restaurants; retail plant nurseries; roads; service stations; shops; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments.

Development for the purpose of the following (which is *notifiable development*):

apartment buildings; attached dual occupancies; car repair stations; caravan parks; clubs; detached dual occupancies; environmentally integrated housing; exhibition villages; guest houses; hospitals; hotels; motels; reception establishments; telecommunications facilities; tourist facilities; town-houses; villas.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with neither more than 1 metre cut nor 0.6 metre fill (that do not increase the number of storeys in the dwelling); different commercial premises use resulting from change of use of commercial premises; different shop use resulting from change of use of a shop; erection of single-storey dwelling-houses with neither more than 1 metre cut nor 0.6 metre fill; internal alterations related to an existing shop; internal alterations related to existing commercial premises.

4 Prohibited development

Any development not included in item 2 or 3.

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Zone 2 (d) (Residential 2 (d) (Protected) Zone)

1 Objectives of zone

The objectives are:

- (a) to provide for the residential development of land within the zone having particular regard to the special environmental development constraints of that land, and
- (b) to provide for the preservation of the vegetative, landscape, drainage, scenic and environmental qualities of the land within the zone by minimising the impact of development on the natural environment.

2 Development allowed without consent

Exempt development and development for the purpose of:
home activities.

3 Development allowed only with consent

Development for the purpose of:

additions and alterations related to an existing dwelling; advertising structures; bed and breakfast establishments; bush fire fighting establishments; bush fire hazard reduction; child care centres; community facilities; dwelling-houses; environmental protection works; exhibition homes; filling of land; home businesses; renewable energy facilities; roads; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works).

Development for the purpose of the following (which is *notifiable development*):

attached dual occupancies; environmentally integrated housing; telecommunications facilities.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with neither more than 1 metre cut nor 0.6 metre fill.

4 Prohibited development

Any development not included in item 2 or 3.

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Zone 2 (e) (Residential 2 (e) Zone)

1 Objectives of zone

The objectives are:

- (a) to provide for the residential development of land within the zone having regard to the special development constraints of the land, and
- (b) to ensure that development in geotechnical hazard localities does not have any detrimental effect on the land the subject of the development or on land in its vicinity, and
- (c) to ensure that any use of land within the zone is able to tolerate the effects of soil movement.

2 Development allowed without consent

Exempt development.

3 Development allowed only with consent

Development for the purpose of:

additions and alterations to an existing dwelling; dwelling-houses; open space; renewable energy facilities; retaining walls.

Development for the purpose of the following (which is *notifiable development*):

telecommunications facilities.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 3 (a) (Business 3 (a) (Retail) Zone)

1 Objectives of zone

The objectives are:

- (a) to encourage appropriate development for accommodating the retail, commercial and social needs of the community, and
- (b) to encourage the development and expansion of business activities that will contribute to the economic growth of, and the creation of, employment opportunities within the local government area, and

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- (c) to encourage a wide range of retail, commercial, community, leisure and entertainment facilities in the major business centres of the local government area, and
- (d) to integrate retail and commercial activities within a network of public and civic spaces, and
- (e) to ensure the scale and type of business development within the zone is compatible with the character and amenity of surrounding land, and
- (f) to integrate retail and commercial activities with public transport facilities, and
- (g) to promote development that encourages public transport use and minimises private traffic generation, and
- (h) to provide for mixed use development, including housing, in conjunction with retail, commercial and professional services.

2 Development allowed without consent

Exempt development and development for the purpose of: home activities.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

apartment buildings; hotels; motels; telecommunications facilities; town-houses; villas.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

different commercial premises use resulting from change of use of commercial premises; different shop use resulting from change of use of a shop; internal alterations related to an existing shop; internal alterations related to existing commercial premises.

4 Prohibited development

Development for the purpose of:

airline terminals; amusement parks; attached dual occupancies; bus depots; caravan parks; detached dual occupancies; dwelling-houses; exhibition homes; extractive industries; gas holders; generating works (other than renewable energy facilities); helipads; heliports; home industries; industries; institutions; intensive animal industries; intensive horticulture

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establishments; liquid fuel depots; mines; offensive or hazardous industries; road transport terminals; roadside stalls; sawmills; stock and sale yards; timber yards; waste disposal.

Zone 3 (b) (Business 3 (b) (Commercial) Zone)

1 Objectives of zone

The objectives are:

- (a) to provide land, to support general retail and commercial development of land within Zone 3 (a), in identified centres by providing land for commercial office development and employment in close proximity to the centres, and
- (b) to provide land to support general retail and commercial development of land within Zone 3 (a), in identified centres by providing land for uses that service the needs of activities carried on in those centres and that are complementary to other development within the area, and
- (c) to facilitate a range of business and commercial development using and developing advanced technology products and processes, and
- (d) to provide additional land adjacent to existing commercial centres where a mixture of professional, commercial and residential uses can be carried out, and
- (e) to provide an effective buffer, between land within Zone 3 (a) and adjacent residential areas, that contributes to a safe, liveable, pedestrian oriented environment, and
- (f) to promote development that encourages public transport use and minimises private traffic generation.

2 Development allowed without consent

Exempt development and development for the purpose of: home activities.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

apartment buildings; clubs; telecommunications facilities; town-houses.

Any other development not included in item 2 or 4.

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Included in this item is the following *complying development*:
different commercial premises use resulting from a change of use of commercial premises; internal alterations related to existing commercial premises.

4 Prohibited development

Development for the purpose of:

airline terminals; amusement parks; animal boarding, breeding and training establishments; attached dual occupancies; bulky goods retailing; bus depots; bus stations; car repair stations; caravan parks; detached dual occupancies; dwelling-houses; exhibition homes; exhibition villages; extractive industries; generating works (other than renewable energy facilities); helipads; heliports; home industries; hotels; industries; institutions; intensive animal industries; intensive horticulture establishments; light industries; liquid fuel depots; mines; motor vehicle servicing; offensive or hazardous industries; office warehouses; road transport terminals; roadside stalls; rural industries; rural workers' dwellings; sawmills; shops; stables; stock and sale yards; timber yards; warehouses; waste disposal.

Zone 3 (c) (Service Business 3 (c) Zone)

1 Objectives of zone

The objectives are:

- (a) to promote a range of uses that support and service the needs of retail and commercial activities carried out from land within Zone 3 (a) in major business centres, and
- (b) to promote a range of business and employment opportunities in the research and development of advanced technology products and processes, and
- (c) to permit development involving bulky goods retailing, and
- (d) to provide a buffer between land within Zone 3 (a) and adjacent residential areas.

2 Development allowed without consent

Exempt development.

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3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

bus depots; bus stations; car repair stations; child care centres; educational establishments; health care premises; hospitals; hotels; motels; motor vehicle servicing; places of assembly; public buildings; reception establishments; recreation facilities; telecommunications facilities.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

different commercial premises use resulting from change of use of commercial premises; internal alterations related to existing commercial premises.

4 Prohibited development

Development for the purpose of:

airline terminals; amusement parks; apartment buildings; attached dual occupancies; caravan parks; detached dual occupancies; dwelling-houses; dwellings; exhibition homes; extractive industries; guest houses; home activities; home businesses; home industries; industries; institutions; junk yards; landscape supply establishments; liquid fuel depots; mines; offensive or hazardous industries; retail plant nurseries; road transport terminals; roadside stalls; sawmills; shops (other than those listed in Schedule 4); stock and sale yards; tourist facilities; town-houses; villas; waste disposal.

Zone 4 (b) (Light Industry 4 (b) Zone)

1 Objectives of zone

The objectives are:

- (a) to allow a wide range of industrial, warehousing and manufacturing activities, that will contribute to economic and employment growth in the local government area, requiring a range of floor areas, together with ancillary uses, the opportunity to locate within that area, and
- (b) to provide for associated uses to service the convenience needs of the local workforce, and
- (c) to encourage a high standard of industrial development that is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development, and

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- (d) to protect the viability of commercial centres by enabling development for the purpose of commercial offices only where it is associated with and ancillary to industrial, manufacturing, warehousing or like land uses on the same land, and
- (e) to permit generally large-scale retail and display activities that require extensive site areas, and that generate a low return per unit of floor area or that require a relatively free-standing location to facilitate the loading and unloading of goods, but only if such activities cannot appropriately be located in, or do not adversely affect the viability of, services offered in Zone 3 (a), and
- (f) to encourage innovative and imaginative design with particular emphasis on the integration of buildings and landscaped areas, and
- (g) to support the business zones of the local government area.

2 Development allowed without consent

Exempt development and development for the purpose of: home activities.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

bulky goods retailing; hotels; motels; telecommunications facilities; waste disposal.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

different use of an industrial unit resulting from a change of one industrial use to another involving less than 500m² in gross floor area; internal alterations related to an existing industrial unit or industrial building (except where gross floor area is increased).

4 Prohibited development

Development for the purpose of:

agricultural products establishments; agriculture; airline terminals; amusement parks; animal boarding, breeding and training establishments; apartment buildings; aquaculture; attached dual occupancies; bed and breakfast establishments; caravan parks; commercial premises (other than banks, timber

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yards and those associated with industries); dams; detached dual occupancies; dwelling-houses; dwellings (other than those ancillary to light industry and situated on land on which the light industry is conducted); environmentally integrated housing; exhibition homes; extractive industries; forestry; guest houses; health care premises; hospitals; industries (other than light industries); institutions; intensive animal industries; intensive horticulture establishments; junk yards; liquid fuel depots; mines; offensive or hazardous industries; places of assembly; public buildings (other than motor registries); reception establishments; retail plant nurseries; road transport terminals; roadside stalls; rural industry; rural workers' dwellings; sawmills; shops (other than those listed in Schedule 4); stables; stock and sale yards; tourist facilities; town-houses; villas.

Zone 5 (a) (Special Uses 5 (a) (Existing and Proposed) Zone)

1 Objectives of zone

The objectives are:

- (a) to identify land to be or currently used by public authorities, private organisations and the Council on which development may be carried out that assists the operation and functioning of development in adjoining residential areas, and
- (b) to identify land reserved for future acquisition by the Council for a range of community facilities and services, and
- (c) to identify land that has been reserved at the request of public authorities for their future acquisition on which development may be carried out that assists the operation and functioning of development in adjoining residential areas, and
- (d) to identify land that has been acquired by private organisations and provide land on which development may be carried out that assists the operation and functioning of development in adjoining residential areas (such as development for the purpose of educational establishments), and
- (e) to permit land that is not immediately required for special use purposes to be used for purposes permissible in adjoining zones where that use is compatible with the existing use or likely future use of the land.

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| Clause 13 | Baulkham Hills Local Environmental Plan 2005 |
| Part 2 | General restrictions on development of land |

2 Development allowed without consent

Exempt development.

3 Development allowed only with consent

Development for the purpose of:

- (a) in relation to land set aside for a particular land use (as indicated by black lettering on the map) other than railways:
the particular land use for which the land has been set aside; bush fire hazard reduction; community facilities; open space; public buildings; recreation areas; renewable energy facilities; roads; utility installations (other than gas holders or generating works), and
- (b) in relation to land set aside for use for railways (as indicated by the word "Railways" on the map):
open space; railways; renewable energy facilities; roads; utility installations.

Development for the purpose of the following (which is *notifiable development*):

any land use specified in item 3 of the matter, in this Table, relating to any other zone in which land adjacent to the land concerned is situated; telecommunications facilities.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 5 (b) (Special Uses 5 (b) (Existing and Proposed Roads Zone))

1 Objectives of zone

The objective is to identify land required for existing or proposed roads (including the widening of existing roads) and to provide for the acquisition of that land.

2 Development allowed without consent

Nil.

Baulkham Hills Local Environmental Plan 2005

Clause 13

General restrictions on development of land

Part 2

3 Development allowed only with consent

Development for the purpose of:

bush fire hazard reduction; public utility undertakings; renewable energy facilities; roads; utility installations (other than gas holders or generating works).

Development for the purpose of the following (which is *notifiable development*):

telecommunications facilities.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 5 (c) (Special Uses 5 (c) (Trunk Drainage and Conservation) Zone)

1 Objectives of zone

The objectives are:

- (a) to identify land to be acquired by Sydney Water Corporation for trunk drainage purposes, and
- (b) to provide for the use of land for drainage purposes having regard for the environmental constraints of that land, and
- (c) to provide for the preservation of biological diversity, archaeological significance, scenic values and recreation opportunities of that land.

2 Development allowed without consent

Nil.

3 Development allowed only with consent

Development for the purpose of:

bush fire hazard reduction; drainage works; landscaping; open space; recreation areas; recreation facilities; renewable energy facilities; roads; utility installations.

4 Prohibited development

Any development not included in item 2 or 3.

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| Clause 13 | Baulkham Hills Local Environmental Plan 2005 |
| Part 2 | General restrictions on development of land |

Zone 6 (a) (Open Space 6 (a) (Existing and Proposed Public Recreation) Zone)

1 Objectives of zone

The objectives are:

- (a) to ensure there is provision of adequate open space areas to meet the existing and future needs of residents and to provide opportunities to enhance the environmental quality and heritage character of the Baulkham Hills local government area, and
- (b) to identify land that is now owned, or proposed to be owned, by the Council and to provide for the acquisition or dedication of that land for open space or public recreational purposes, and
- (c) to identify land that is owned by the Crown and is under the care, control and management of the Council as public open space, and
- (d) to protect, preserve and enhance areas of urban bushland and fauna habitat corridors that are considered valuable in terms of their natural heritage significance and recreational, educational, aesthetic and scientific value, and
- (e) to provide opportunities for formal and informal recreation and tourist facilities development on publicly owned land for use by the community.

2 Development allowed without consent

Development for the purpose of:

bush fire hazard reduction; open space; works and buildings involved in landscaping.

3 Development allowed only with consent

Development for the purpose of:

agriculture (other than dams); bush fire fighting establishments; caravan parks; caretakers' dwellings; child care centres; community facilities; environmental protection works; forestry; public buildings; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; roads; utility installations (other than gas holders or generating works).

Development for the purpose of the following (which is *notifiable development*):

restaurants; telecommunications facilities.

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Clause 13

General restrictions on development of land

Part 2

4 Prohibited development

Any development not included in item 2 or 3.

Zone 6 (b) (Open Space 6 (b) (Private Recreation) Zone)

1 Objectives of zone

The objectives are:

- (a) to identify land where private recreation and tourist facilities are located or may be developed, and
- (b) to promote tourism, recreation and entertainment development in appropriate areas.

2 Development allowed without consent

Exempt development and development for the purpose of:

bush fire hazard reduction; works for the purposes of landscaping.

3 Development allowed only with consent

Development for the purpose of:

advertising structures; agriculture; bush fire fighting establishments; child care centres; community facilities; environmental protection works; filling of land; forestry; leisure facilities; open space; public buildings; recreation areas; recreation facilities; renewable energy facilities; roads; utility installations (other than gas holders or generating works).

Development for the purpose of the following (which is *notifiable development*):

clubs associated with recreation facilities; restaurants; telecommunications facilities; tourist facilities.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 7 (a) (Environmental Protection 7 (a) (Wetlands) Zone)

1 Objectives of zone

The objectives are:

- (a) to conserve and enhance the ecological, scenic and environmental attributes of wetland areas, and
- (b) to allow development only where it will not have a significant detrimental effect on wetlands.

Clause 13 Baulkham Hills Local Environmental Plan 2005
Part 2 General restrictions on development of land

2 Development allowed without consent

Development for the purpose of:
home activities.

3 Development allowed only with consent

Development for the purpose of:
additions or alterations related to existing dwellings; agriculture
(other than dams); bush fire hazard reduction; dwelling-houses;
environmental protection works; open space; renewable energy
facilities.

Development for the purpose of the following (which is
notifiable development):

Nil.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 8 (a) (National Parks and Nature Reserves 8 (a) Zone)

1 Objectives of zone

The objective is to identify land that is reserved or dedicated
under the *National Parks and Wildlife Act 1974*.

2 Development allowed without consent

Any development authorised by or under the *National Parks and
Wildlife Act 1974* or ancillary or incidental to any such
development.

3 Development allowed only with consent

Nil.

4 Prohibited development

Any development not included in item 2 or 3.

Baulkham Hills Local Environmental Plan 2005

Clause 13

General restrictions on development of land

Part 2

Zone 10 (a) (Employment Area 10 (a) (Business Park) Zone)

1 Objectives of zone

The objectives are:

- (a) to provide for new industrial, business and office development that will contribute to the economic and social growth of the local government area, and
- (b) to provide for the special requirements of light industry and business, particularly in the areas of advanced technology and communications, and to cater for the varying needs of employment activities, and
- (c) to encourage the development of a new industrial business and office employment area in a location highly accessible to employees, and
- (d) to make special provision for industries using and developing advanced technology products and processes, and
- (e) to provide facilities for business and light industry by allowing development of a range of ancillary commercial, recreational and community facilities and other development activities serving the needs of the business park workforce, and
- (f) to create a park-like environment emphasising the integration of all structures and landscaped areas, and
- (g) to promote development that encourages public transport use and minimises private traffic generation.

2 Development allowed without consent

Exempt development.

3 Development allowed only with consent

Development for the purpose of the following (which is *notifiable development*):

telecommunications facilities.

Any development not included in item 2 or 4.

Included in this item is the following *complying development*:

different commercial premises use resulting from a change of use of commercial premises; different use of an industrial unit resulting from a change of one industrial use to another involving less than 500m² in gross floor area; internal alterations related to an existing industrial unit or industrial building (except

| | |
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| Clause 13 | Baulkham Hills Local Environmental Plan 2005 |
| Part 2 | General restrictions on development of land |

where gross floor area is increased); internal alterations related to existing commercial premises.

4 Prohibited development

Development for the purpose of:

agricultural products establishments; agriculture; amusement parks; animal boarding, breeding and training establishments; apartment buildings; attached dual occupancies; bed and breakfast establishments; bulky goods retailing; bus depots; caravan parks; dams; detached dual occupancies; dwelling-houses; dwellings (other than those ancillary to light industry and situated on land on which the light industry is conducted); environmentally integrated housing; exhibition homes; exhibition villages; extractive industries; forestry; generating works (other than renewable energy facilities); home activities; home businesses; home industries; industries (other than light industries); institutions; intensive animal industries; intensive horticulture establishments; junk yards; liquid fuel depots; mines; offensive or hazardous industries; places of assembly; road transport terminals; roadside stalls; rural industries; rural workers' dwellings; shops; stables; stock and sale yards; town-houses; waste disposal; villas.

Baulkham Hills Local Environmental Plan 2005

Clause 14

Special provisions

Part 3

Part 3 Special provisions

Division 1 Subdivision and demolition

14 Subdivision requires consent

Subdivision of land to which this plan applies may be carried out, but only with development consent.

15 Demolition requires consent

Demolition of a building or work may be carried out on land to which this plan applies, but only with development consent, unless it is exempt development.

16 Subdivision of dual occupancies prohibited

- (1) In this clause, *dual occupancy dwellings* means the dwellings resulting from attached dual occupancy or detached dual occupancy development carried out before or after the commencement of this plan.
- (2) Consent must not be granted for a subdivision of land that consists of or includes dual occupancy dwellings if the subdivision would:
 - (a) create separate land titles for each of the dual occupancy dwellings, or
 - (b) be effected by any agreement, dealing, plan or instrument that renders each of the dual occupancy dwellings available for separate occupation, use or disposition.
- (3) This clause does not prohibit:
 - (a) a subdivision by a strata plan that creates lots substantially corresponding with parts of a building that were shown in the building plans accompanying the building application and designated in those plans as being intended for separate occupation, if the Council's approval for the building was granted before the commencement of *Baulkham Hills Local Environmental Plan 1991 (Amendment No 37)*, or
 - (b) the issue of a certificate of approval for such a strata plan.

17 Saving of right to subdivide certain dual occupancies

- (1) In this clause:

commencement day means 18 October 1996, being the day on which *Baulkham Hills Local Environmental Plan 1991 (Amendment No 37)* was gazetted.

Clause 18 Baulkham Hills Local Environmental Plan 2005

Part 3 Special provisions

preserved development means:

- (a) dual occupancy development the subject of a development consent granted before the commencement day that has been, or may be, carried out in accordance with that consent, or
 - (b) dual occupancy development the subject of a development application made before the commencement day that was or is determined on or after the commencement day by the granting of development consent.
- (2) Despite clause 16, land on which preserved development has been or is carried out may be subdivided so as to allow the creation of separate land titles for each of the two dwellings resulting from the preserved development if the subdivision would have been lawful immediately before the commencement day.

18 Subdivision of land in Zones 1 (a), 1 (b), 1 (c), 1 (d) and 7 (a)

- (1) Subject to subclause (5), land within a zone specified in paragraph (a)–(d) must not be subdivided unless each separate allotment to be created by the subdivision has an area of not less than the area specified in respect of that land:
 - (a) Zone 1 (a)—40 hectares,
 - (b) Zone 1 (b)—10 hectares,
 - (c) Zone 1 (c)—2 hectares,
 - (d) Zone 7 (a)—40 hectares.
- (2) Consent must not be granted to a subdivision of land within Zone 1 (d) unless:
 - (a) the land forms part of an existing holding, and
 - (b) the number of lots to be created and that the consent authority is satisfied will be used for the purpose of erecting a dwelling-house is not greater than the area of the existing holding, expressed in hectares, divided by 2 and rounded up to the nearest whole number, and
 - (c) the area of each separate allotment to be created is not less than 0.6 hectares.
- (3) An allotment of land created in accordance with subclause (2) must not be further subdivided into lots for the purpose of erecting a dwelling-house.
- (4) Nothing in subclause (3) precludes a subdivision that complies with subclause (2) being carried out in stages.

Baulkham Hills Local Environmental Plan 2005

Clause 19

Special provisions

Part 3

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- (5) Despite any other provision of this plan, land may be subdivided, with development consent, for any of the following purposes:
- (a) creating a public reserve,
 - (b) creating an allotment or allotments which is or are, or is or are intended to be, used for public purposes, including drainage purposes, bush fire brigade or other rescue service purposes or public convenience,
 - (c) making a minor adjustment to a common boundary between allotments, being an adjustment that does not involve the creation of any additional allotment,
 - (d) rectifying an encroachment on an allotment,
 - (e) consolidating allotments,
 - (f) opening or widening a public road,
 - (g) enlarging the area of any existing allotment, without reducing the area of any other existing allotment below the minimum described in subclause (1).

Division 2 Residential development

19 Minimum site area for apartment buildings, town-houses and villas

Consent must not be granted to development for the purpose of buildings of a kind specified in Column 1 of the Table to this clause unless the total area of the land the subject of the development application is equal to or greater than the area specified in Column 2 in relation to those buildings.

Table

| Column 1 | Column 2 |
|--------------------|---------------------|
| apartment building | 4,000m ² |
| town-houses | 1,800m ² |
| villas | 1,000m ² |

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|-----------|--|
| Clause 20 | Baulkham Hills Local Environmental Plan 2005 |
| Part 3 | Special provisions |

20 Smaller minimum site area for apartment buildings, town-houses and villas

Despite clause 19, consent may be granted to development for the purpose of apartment buildings, town-houses or villas on land that is smaller than the area required by that clause if the Council is satisfied that:

(a) **Streetscape**

The form of the proposed structures is compatible with adjoining structures in terms of their elevation to the street and building height.

(b) **Visual and acoustic privacy**

The design and location of rooms, windows and balconies of the proposed structures, and the open space to be provided, ensures acceptable noise levels and visual privacy.

(c) **Solar access and design**

The dwellings are designed to minimise energy needs and utilise passive solar design principles.

(d) **Landscaping and open space**

Significant existing vegetation will be retained and landscaping is incorporated within setbacks and open space areas.

21 Sites adjoining apartment buildings, town-houses and villas

(1) Consent must not be granted to the development of land in Zone 2 (a1) for the purpose of apartment buildings, town-houses or villas if the carrying out of the proposed development would, in the opinion of the consent authority, render any allotment adjoining the site of the proposed development incapable of development for the purpose of town-houses because the allotment would not meet the requirements of clause 19.

(2) Consent must not be granted to the development of:

(a) land in Zone 2 (a2) for the purpose of town-houses or villas, or

(b) land in Zone 2 (a3) for the purpose of villas,

if the carrying out of the proposed development would, in the opinion of the consent authority, render any allotment adjoining the site of the proposed development incapable of development for the purpose of villas because the allotment would not meet the requirements of clause 19.

Baulkham Hills Local Environmental Plan 2005

Clause 22

Special provisions

Part 3

22 Integrated housing

Despite any other provision of this plan, development for the purpose of integrated housing may be carried out, but only with development consent, on land:

- (a) that is within Zone 2 (a), 2 (b) or 2 (c), and
- (b) to which the *Sydney Regional Environmental Plan No 19—Rouse Hill Development Area*, as gazetted on 1 September 1989 applies.

Division 3 Protection of the environment

23 Development of flood liable land

- (1) Consent must not be granted for development of land that, in the opinion of the consent authority, may be subject to flooding, unless the consent authority has taken into account the following aim of this plan: to reduce the impact of flooding on owners and occupiers and to reduce private and public losses resulting from flooding, whilst ensuring the environment is conserved and protected.
- (2) Despite any other provision of this plan, development must not be carried out on land that is subject to the flood standard, except with development consent.

24 Development near Hawkesbury River

- (1) This clause applies to all land within Zone 1 (b) that is within 1,000 metres of the bank of the Hawkesbury River.
- (2) A building (other than a loading ramp, jetty, pontoon or the like) must not be erected on land within 30 metres of the bank of the Hawkesbury River.
- (3) The external surface of any building must be constructed of prescribed materials.
- (4) Development may be carried out on land to which this clause applies (including the clearing of any such land of trees or other vegetation) only with development consent.

25 Protection of riparian land near creeks

Consent must not be granted to the carrying out of development within 200 metres of a creek, unless the consent authority is satisfied that the development will not have a detrimental impact on natural ecosystems, flora and fauna, water quality, natural drainage channels, visual amenity, flooding, soil erosion or topographical features.

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| Clause 26 | Baulkham Hills Local Environmental Plan 2005 |
| Part 3 | Special provisions |

26 Land subject to bush fire hazards

Before granting consent to any development on land that in its opinion is likely to be affected by bush fire, the consent authority must take into account whether:

- (a) the development is likely to have an adverse effect on the implementation of any strategies for bush fire control and fuel management adopted by the Baulkham Hills Bush Fire Management Committee in accordance with the *Rural Fires Act 1997*, and
- (b) access arrangements to and from the development will increase the hazard to residents, visitors or emergency services, and
- (c) the increased demand for emergency services, during bush fire events created by the development would lead to a decrease in the ability of the emergency services personnel to effectively control major bush fires, and
- (d) the measures adopted to avoid or mitigate the threat from bush fire, including siting of the development, design of structures and materials used, clearing of vegetation, fuel free and fuel reduced areas and landscaping and fire control aids such as roads and water supplies are inadequate for the locality or would result in unacceptable environmental impacts.

27 Tree and bushland management

- (1) The aim of this provision is to maintain and enhance the visual amenity of the local government area of Baulkham Hills through the effective control and management of actions likely to affect the health of trees and bushland.
- (2) This clause applies to any tree (including a habitat tree) or bushland, except as otherwise provided by this clause.
- (3) Except in accordance with a development consent or permit granted by the Council, a person must not ring-bark, cut down, top, lop, remove, injure or wilfully destroy any tree or bushland.
- (4) Except in accordance with a development consent, the carrying out of any filling or excavating (excluding top dressing, gardening, paving on a sand base and the like) within the area vertically beneath the foliage of a tree or bushland is prohibited.

Baulkham Hills Local Environmental Plan 2005

Clause 27

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- (5) Despite subclauses (2) and (3), the following may be removed without a development consent or permit granted by the Council:
- (a) trees in a State forest or on land reserved as a timber reserve within the meaning of the *Forestry Act 1916*, trees required to be trimmed or removed under section 48 of the *Electricity Supply Act 1995* or trees or bushland on land reserved or dedicated under the *National Parks and Wildlife Act 1974*, or
 - (b) trees or bushland of a species that has been declared a noxious weed under the *Noxious Weeds Act 1993*, or
 - (c) a fruit tree or tree grown for the purposes of fruit or fodder, excluding naturally growing native fruiting species, or
 - (d) a tree of any of the following species:
 - Alnus jorrullensis* (Evergreen Alder)
 - Populus nigra* “*Italica*” (Lombardy Poplar)
 - Pittosporum undulatum* (Sweet Pittosporum)
 - Eucalyptus nicholii* (Narrowed Leaved Peppermint)
 - Schefflera actinophylla* (Umbrella Tree)
 - Ficus elastica* (Indian Rubber Tree)
 - Acer negundo* (Box Elder Maple)
 - Salix babylonica* (Willow Tree)
 - Gleditsia triacanthus* (Honey Locust)
 - Ligustrum lucidum* (Broad Leaved Privet)
 - Ligustrum sinense* (Small Leaved Privet)
 - Olea europaea* (Wild Olive)
 - Robina pseudoacacia* (False Acacia/Black Locust)
 - Toxicodendron succedaneum* (Rhus Tree)
 - Syagrus romanzoffianum* (Cocos Palm)
- (6) This clause does not require development consent or a permit to allow the ring-barking, cutting down, topping, lopping, removal, injury or wilful destruction of a tree or bushland:
- (a) if the tree is not a habitat tree and the tree was dying, dead or dangerous and:
 - (i) the tree poses an imminent danger to property or life, or
 - (ii) the action is necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the tree, or
 - (b) if the action is required or allowed to be carried out by or under the *Rural Fires Act 1997* without development consent, or

Clause 28 Baulkham Hills Local Environmental Plan 2005

Part 3 Special provisions

- (c) if an application for a permit to allow the action was made to Council and the Council did not within 21 days serve the person who made the application with notice that it opposed the action being taken.

28 Clearing of bushland in Zone 1 (a), 1 (b), 1 (c), 1 (d) or 7 (a) requires consent

Despite any other provisions of this plan, clearing of bushland in Zone 1 (a), 1 (b), 1 (c), 1 (d) or 7 (a) may be carried out only with development consent, unless the clearing consists of:

- (a) an activity required or allowed to be carried out by or under the *Rural Fires Act 1997* without development consent, or
- (b) bush fire hazard reduction works a land owner has otherwise been lawfully directed to carry out by a member of the NSW Rural Fire Service or the State Emergency Service.

29 Development on land identified on Acid Sulfate Soils Planning Maps

- (1) *Acid Sulfate Soils Planning Maps* means the series of maps prepared by the former Department of Urban Affairs and Planning and dated December 1997, held in the offices of the Department of Infrastructure, Planning and Natural Resources.
- (2) A person must not, without development consent, carry out works described in the following Table on any land of a class specified in that Table for those works, except as provided by subclause (4).

Class of land as shown on Acid Sulfate Soils Planning Maps

| Class of land as shown on Acid Sulfate Soils Planning Maps | Works |
|--|---|
| 1 | Any works |
| 2 | Works below natural ground surface Works by which the watertable is likely to be lowered |
| 3 | Works beyond 1 metre below natural ground surface Works by which the watertable is likely to be lowered beyond 1 metre below natural ground surface |
| 4 | Works beyond 2 metres below natural ground surface Works by which the watertable is likely to be lowered beyond 2 metres below natural ground surface |
| 5 | Works within 500 metres of adjacent Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD on adjacent Class 1, 2, 3, or 4 land |

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Clause 29

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- (3) For the purposes of the Table to subclause (2), *works* includes:
- (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
 - (b) any other works that are likely to lower the watertable.
- (4) 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 the 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 *Acid Sulfate Soils Assessment Guidelines*.
- (5) A consent required by this clause must not be granted unless the consent authority has considered:
- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and
 - (b) the likelihood of the proposed development resulting in the discharge of acid water, and
 - (c) any comments received from the Department within 40 days of the Council having sent the Department a copy of the development application.
- (6) This clause requires consent for development to be carried out by councils, county councils or drainage unions 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*.

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| Clause 30 | Baulkham Hills Local Environmental Plan 2005 |
| Part 3 | Special provisions |

30 Land affected by geotechnical hazard

Consent must not be granted to the carrying out of development on land shown stippled black and labelled “Geotechnical Assessment Area” on the map unless the consent authority is satisfied that a geotechnical appraisal of the land (including the sinking of cored boreholes) has been undertaken and that a suitably qualified engineer experienced in soil and rock mechanics has certified that the land is suitable for the proposed development.

31 Advertising structures and advertisements

- (1) A person must not erect or display an advertising structure or advertisement without development consent, except as exempt development.
- (2) Consent may be granted to the erection or use of an advertising structure only where it advertises the purpose for which the premises or land on which it stands is used.
- (3) The Council may erect advertising structures on land within Zone 1 (a), 1 (b), 1 (c) or 1 (d) for the purpose of directing the travelling public to tourist areas or for the purpose of displaying private advertisements to tourist facilities.
- (4) The use of public land to display an advertisement for a commercial purpose on a trailer is prohibited. This subclause does not apply to a trailer attached to a motor vehicle while the vehicle and trailer are otherwise lawfully on the carriageway of a public street.
- (5) The erection of any form of advertising sign attached to a telegraph pole, tree, street post or the like is prohibited.
- (6) This clause does not affect the application of *State Environmental Planning Policy No 64—Advertising and Signage* to land to which this plan applies.

32 Extractive industries

Consent must not be granted to the carrying out of development for the purpose of extractive industries unless the consent authority has given consideration to the following:

- (a) social, economic and environmental impacts of the proposed development and the management of those impacts,
- (b) the extent to which internationally and nationally recognised environmental standards may be implemented in carrying out the proposed development,
- (c) the extent of community consultation about and involvement in all phases of the proposed development,

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- (d) the existence, nature and level of detail of sound technical parameters for carrying out the proposed development in an environmentally sensitive manner,
 - (e) the conservation of the biological and cultural diversity and quality of land within the Baulkham Hills local government area,
 - (f) the impact of the proposed development on the archaeological resources of the site,
 - (g) the impact on the cultural landscape, including any significant views and vistas to or from heritage items located in the vicinity of the proposed development,
 - (h) a proposed program for remediation of the site and for post extractive industry usage,
 - (i) the impact of the proposed development on surface water and groundwater resources,
 - (j) the impact of the proposed development on native vegetation (trees, shrubs and groundcover species) including threatened species,
 - (k) the impact of the proposed development on native fauna habitat,
 - (l) the provision of an adequate setback of not less than 40 metres from the top bank of a watercourse to the extraction operations.

33 Development within Zone 2 (e)

- (1) Consent must not be granted to the carrying out of any of the following development on land within Zone 2 (e):
 - (a) development that does not provide for the connection of surface stormwater on the land the subject of the development to a piped stormwater drainage system,
 - (b) the erection of a dwelling-house, unless:
 - (i) the proposed dwelling-house is a replacement for an existing dwelling, and
 - (ii) it will have a floor area not exceeding 125% of the floor area of the existing dwelling, and
 - (iii) it will be a light and flexible structure capable of tolerating soil movement,
 - (c) additions or alterations to an existing dwelling-house, unless:
 - (i) the area of the existing dwelling-house will not be increased by more than 25%, and
 - (ii) the additions or alterations will be light and flexible and capable of tolerating soil movement,

Clause 34 Baulkham Hills Local Environmental Plan 2005

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- (d) excavation or filling of land to a depth or height of more than 300mm from the existing surface level,
 - (e) the erection of or installation of:
 - (i) any concrete or fibreglass swimming-pool, or
 - (ii) an above-ground swimming-pool (unless the swimming-pool is less than 1 metre deep),
 - (f) a subdivision for the purpose of creating additional lots to be used for residential purposes.
- (2) A person may, with development consent:
- (a) erect a shed or carport, if it is of a lightweight and flexible material, or
 - (b) replace or reclad the walls of an existing dwelling in lightweight, flexible materials.
- (3) Consent must not be granted to any development that involves the erection of a structure on any land and is allowed to be carried out because of an exception to subclause (1) or because of subclause (2) unless the consent authority is satisfied that a suitably qualified engineer experienced in soil and rock mechanics has certified that the structure is suitable for the land, having regard to the geotechnical constraints of the land.
- (4) In this clause:
- existing dwelling* and *existing dwelling-house* means a dwelling or dwelling-house as it existed on 1 February 2002, being the day on which *Baulkham Hills Local Environmental Plan 1991 (Amendment No 92)* commenced.
- existing surface level*, in relation to land, means the surface level of the land on that day.

34 Environmental management and monitoring

Consent must not be granted to development within Zone 1 (a), 1 (b), 1 (c), 1 (d), 7 (a) or 8 (a), unless the consent authority is satisfied that the proposed development takes into account the following environmental features adequately and that those features will continue to be monitored:

- (a) water quality,
- (b) soil erosion,
- (c) air quality,
- (d) noise,
- (e) salinity,

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- (f) bush fire hazard,
 - (g) flora and fauna,
 - (h) the continued monitoring of the above issues.

Division 4 Heritage conservation

35 Protection of heritage items, relics and heritage conservation areas

- (1) The following development may be carried out only with development consent:
 - (a) demolishing or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
 - (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
 - (c) altering a heritage item or a building, work, relic, or place within a heritage conservation area by making structural changes to its interior,
 - (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
 - (e) moving the whole or a part of a heritage item or a building, work, relic, tree or place within a heritage conservation area,
 - (f) erecting a building on, or subdividing, land on which a heritage item is located or that is within a heritage conservation area.
- (2) Development consent is not required by this clause if:
 - (a) in the opinion of the Council:
 - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or of a building, work, relic, tree or place within a heritage conservation area, and
 - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area, and
 - (b) the proponent has notified the Council in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.

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- (3) Development consent is not required by this clause for the following development in a cemetery or burial ground if there will be no disturbance to human remains, or to relics in the form of grave goods:
 - (a) the creation of a new grave or monument, or
 - (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.
- (4) Before granting a consent required by this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (5) The assessment must include consideration of a heritage impact statement that addresses at least the following issues (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues).
- (6) The consent authority may also decline to grant such a consent until it has considered a conservation management plan, if it considers the development proposed should be assessed with regard to such a plan or if the proposed development affects a heritage item designated in Schedule 1 as being of State or regional significance.
- (7) The minimum number of issues that must be addressed by the heritage impact statement are:
 - (a) for development that would affect a heritage item:
 - (i) the heritage significance of the item as part of the environmental heritage of the Baulkham Hills local government area, and
 - (ii) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
 - (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
 - (iv) whether any relic would be adversely affected by the proposed development, and
 - (v) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision, and
 - (b) for development that would be carried out in a heritage conservation area:
 - (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and

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- (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and
 - (iii) the compatibility of any proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development, and
 - (iv) the measures proposed to conserve the significance of the heritage conservation area and its setting, and
 - (v) whether any landscape or horticultural features would be affected by the proposed development, and
 - (vi) whether any relic would be affected by the proposed development, and
 - (vii) the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern.
- (8) Where it is proposed to develop or demolish a building, relic or structure not listed in Schedule 1 that is older than fifty years, the consent authority may require the submission of a heritage impact statement that addresses issues referred to in subclause (7) so as to enable it to fully consider the impact of the development upon the significance of the building, relic, or structure.
- (9) The consent authority must decline to grant a consent required by this Division if any heritage impact assessment or conservation management plan submitted for consideration in connection with the development application has not been prepared in accordance with the principles of the *ICOMOS Burra Charter* and to a standard acceptable to the Council.

36 Advertised heritage development

The following development is identified as advertised development for the purposes of the Act:

- (a) the demolition of a heritage item or a building, work, relic, tree or place in a heritage conservation area,
- (b) the carrying out of any development allowed by clause 40 (Conservation incentives).

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37 Notice of demolition to Heritage Council

Before granting consent for the demolition of a heritage item identified in Schedule 1 as being of State significance, the consent authority must notify the Heritage Council about the application and take into consideration any comments received in response within 28 days after the notice is sent.

38 Development affecting archaeological sites of non-Aboriginal heritage significance

- (1) Before granting consent for development that will be carried out on an archaeological site that has non-Aboriginal heritage significance the consent authority must:
 - (a) consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and
 - (b) notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.
- (2) This clause does not apply if the proposed development:
 - (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or
 - (b) is integrated development.

39 Development in vicinity of a heritage item or heritage conservation area

- (1) Before granting consent to development in the vicinity of a heritage item or a heritage conservation area, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item or the heritage conservation area.
- (2) This clause extends to development:
 - (a) that may have an impact on the setting of a heritage item or heritage conservation area, for example, by affecting a significant view to or from the item or conservation area, or by overshadowing, or
 - (b) that may undermine or otherwise cause physical damage to a heritage item or heritage conservation area, or
 - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or heritage conservation area.

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- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item or heritage conservation area.
 - (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item or heritage conservation area.

40 Conservation incentives

The consent authority may grant consent to:

- (a) the use for any purpose of a building that is a heritage item, or of the land on which any such building is erected, or
- (b) the use for any purpose of a building that has heritage significance and is situated within a conservation area, or of the land on which any such building is erected, even though the use would otherwise not be allowed by this plan, if:
 - (i) it is satisfied that the conservation or retention of the heritage item depends on the granting of consent, and
 - (ii) the proposed use will be in accordance with a conservation management plan that has been endorsed by the consent authority, and
 - (iii) the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
 - (iv) the proposed use would not adversely affect the heritage significance of the heritage item or its setting, and
 - (v) the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

41 Development in heritage conservation areas

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.

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- (2) In satisfying itself about those features, the consent authority must have regard to at least the following (but is not to be limited to having regard to those features):
- (a) the pitch and form of the roof (if any),
 - (b) the style, size, proportion and position of the openings for windows or doors (if any),
 - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building.

Division 5 Acquisition and interim development of reserved land

42 Land within Zone 5 (a) (other than community facility or local open space land) and Zone 5 (c)

- (1) The owner of any land within Zone 5 (a) or 5 (c) may, by notice in writing, require:
- (a) in the case of land within Zone 5 (a) and lettered on the map “Educational Establishment” (unless the land is lettered “Educational Establishment (Private)” on the map) the Minister for Education and Training, or
 - (b) in the case of land within Zone 5 (a) and lettered on the map “Water Storage”, “Pumping Station”, “Sewage Treatment Works” or “Trunk Drainage”, Sydney Water Corporation, or
 - (c) in the case of land within Zone 5 (a) and lettered on the map “Railways”, Rail Corporation New South Wales, or
 - (d) in the case of land within Zone 5 (a) and lettered on the map “Telephone Exchange”, Telstra Corporation Limited, or
 - (e) in the case of land within Zone 5 (a) and lettered on the map “Electricity Generation”, Transgrid, or
 - (f) in the case of land within Zone 5 (a) and lettered on the map “High Voltage Electricity Supply”, TransGrid, or
 - (g) in the case of land within Zone 5 (a) and lettered on the map “Hospital” (unless the land is lettered “Hospital (Private)” on the map) the Health Administration Corporation, or
 - (h) in the case of land within Zone 5 (c) and lettered on the map “Trunk Drainage and Conservation Zone”, Sydney Water Corporation,
- as the public authority that has responsibility for acquisition of the land for the purpose for which the land is zoned, to acquire the land.
- (2) On receipt of a notice referred to in subclause (1), the public authority concerned must acquire the land.

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- (3) Until the land referred to in subclause (1) (or land within Zone 5 (a) shown lettered "Post Office" on the map) is acquired by the public authority concerned, development may be carried out on that land, but only with development consent.
 - (4) Consent may be granted to the carrying out of development of land to be acquired by a public authority before it is acquired only with the concurrence of the public authority.
 - (5) Such a consent may be granted subject to conditions requiring any one or more of the following, with or without the payment of compensation by the public authority:
 - (a) the removal of the building or work for which consent is granted,
 - (b) the reinstatement of the land or removal of any waste materials or refuse,
 - (c) compliance with any condition requested by the public authority in granting its concurrence.
 - (6) In considering whether to grant concurrence required by subclause (4), the public authority concerned must take into consideration:
 - (a) the effect of the proposed development on the costs of acquisition, and
 - (b) the imminence of acquisition.
 - (7) In considering whether to grant concurrence under subclause (4), Sydney Water Corporation must take into consideration, in addition to the matters referred to in subclause (6), the following matters:
 - (a) the need to ensure the efficient operation of the trunk drainage system,
 - (b) the potential threat to life and property during flood,
 - (c) the cost of reinstatement of the land for the purposes for which the land is to be acquired,
 - (d) the requirements of any management plan that Sydney Water Corporation has identified as being relevant to that land,
 - (e) any risks to Sydney Water Corporation associated with the proposal,
 - (f) the compatibility of the proposed development with a Sydney Water Corporation use,
 - (g) the proposed operating and management arrangements,
 - (h) the impact of the proposed development on Sydney Water Corporation's infrastructure.

Clause 43 Baulkham Hills Local Environmental Plan 2005

Part 3 Special provisions

43 Land reserved for roads

- (1) The owner of land within Zone 5 (b) that is a classified road may, by notice in writing, require the RTA to acquire the land if:
 - (a) the land is included in the 5 year works program of the RTA current at the time of the receipt of the notice, or
 - (b) the RTA has decided not to grant concurrence under subclause (4) to an application for consent to the carrying out of development on the land, or
 - (c) the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time.
- (2) The owner of any land within Zone 5 (b) that is not a classified road, may, by notice in writing, require the Council to acquire the land if:
 - (a) the land is included in a current works program of the Council or a program of Council for the acquisition of land by the Council, or
 - (b) the Council is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time.
- (3) On receipt of a notice under this clause, the RTA or the Council, as the case may be, must acquire the land unless the land might reasonably be required to be dedicated for public roads.
- (4) A person may, with development consent and, if the Council is not the acquiring authority, with the concurrence of the RTA, carry out development on land within Zone 5 (b):
 - (a) if the development may be carried out on land in an adjoining zone, or
 - (b) if the development is compatible with development that may be carried out on land in an adjoining zone.
- (5) In deciding whether to grant concurrence to proposed development under this clause, the RTA must take the following matters into consideration:
 - (a) the need to carry out development on the land for the purposes of classified roads or proposed classified roads, within the meaning of the *Roads Act 1993*, and
 - (b) the imminence of acquisition, and
 - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed development.
- (6) Land acquired under this clause may be developed with development consent for any purpose, until such time as it is required for the purpose for which it was acquired.

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- (7) Despite any other provision of this plan, the owner of any land within a corridor identified as a public transport corridor (stippled black) on the map marked “Sydney Regional Environmental Plan No 18—Public Transport Corridors” may, by notice in writing, require the Corporation to acquire the land if:
- (a) the land is included in a current priority programme for acquisition determined by the Corporation, or
 - (b) the Corporation is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time,
- but the Corporation is not required to acquire the land if it might reasonably be required to be dedicated as a condition of consent to a development application.
- (8) On receipt of such a notice, the Corporation must acquire the land.
- (9) Notwithstanding any other provisions of this plan:
- (a) a person is not to carry out development on land identified as a public transport corridor (stippled black) on the map marked “Sydney Regional Environmental Plan No 18—Public Transport Corridors”, and
 - (b) consent must not be granted to the carrying out of development on land within, or in the immediate vicinity of, such land, otherwise than in accordance with the provisions of *Sydney Regional Environmental Plan No 18—Public Transport Corridors*.
- (10) In this clause:
- the Corporation** means the Corporation constituted by section 8 (1) of the Act.
- the RTA** means the Roads and Traffic Authority of New South Wales constituted under the *Transport Administration Act 1988*.

44 Land reserved for community facilities and local open space

- (1) The owner of any land within Zone 5 (a) and lettered on the map “Community Facility” or any land within Zone 6 (a) may, by notice in writing, require the Council to acquire the land.
- (2) On receipt of such a notice, the Council must acquire the land if:
 - (a) the land is included in a program for the acquisition of land by the Council current at the time of receipt of the notice, or

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- (b) the Council is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time, but the Council is not required to acquire the land if it might reasonably be required to be dedicated as a condition of consent to a development application.
 - (3) Until the land referred to in subclause (1) is acquired by the Council, a person may, with development consent, carry out development on that land.
 - (4) Such a consent may be granted subject to conditions requiring either or both of the following, with or without the payment of compensation by the Council:
 - (a) the removal of the building or work for which consent is granted,
 - (b) the reinstatement of the land or removal of any waste material or refuse.
 - (5) In considering whether to grant consent as referred to in subclause (3), the consent authority must take into consideration:
 - (a) the effect of the proposed development on the cost of acquisition, and
 - (b) the imminence of acquisition.
 - (6) Land acquired under this clause may be developed with development consent for any purpose, until such time as it is required for the purpose for which it was acquired.

Division 6 Miscellaneous

45 Adequacy of services to be considered

- (1) Consent must not be granted for the erection of a building, the carrying out of a work or a change of building use unless the consent authority is satisfied that adequate arrangements have been made for any provision or augmentation of the following that will be needed because of the carrying out of the proposed development:
 - (a) a water supply, and sewerage or drainage services,
 - (b) an electricity supply or telephone service,
 - (c) roads.
- (2) Consent must not be granted to the carrying out of development for the purpose of apartment buildings, exhibition villages, shop-top housing, town-houses or villas unless the development is able to be connected to a Sydney Water Corporation sewerage system.

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Clause 46

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46 Infrastructure development

- (1) Nothing in this plan restricts, prohibits, or requires the Council to obtain its own consent for development by the Council on land within any zone for the purpose of roads, cycleways, stormwater drainage, recreation areas, landscaping, gardening, bush fire hazard reduction, riverbank stabilisation or restoration, wetland protection or rehabilitation, public amenities or parking.
- (2) A person other than the Council may, with development consent, carry out development referred to in subclause (1) on land within any zone if the development is carried out in conjunction with development for the purpose of a parking area that is ancillary to development permissible in that zone.

47 Restrictions on development of public open space

- (1) Consent must not be granted to the carrying out of development on land within Zone 6 (a), being land owned or controlled or proposed to be owned or controlled by the Council, unless the consent authority has considered:
 - (a) the need for the proposed development of that land, and
 - (b) the impact of the proposed development on the existing or likely future use of the land, and
 - (c) the need to retain the land for its existing or likely future use.
- (2) Consent must not be granted for a subdivision of land, some of which is within Zone 6 (a), unless the land within that zone will become a separate allotment.
- (3) Despite subclause (2), consent may, where the topography of the land to be subdivided makes it necessary, be granted for a subdivision in which the boundaries of the separate allotment referred to in that subclause do not correspond precisely with the boundaries of the land within Zone 6 (a), as shown on the map, but which vary only to a minor extent.

48 Community use of school facilities or site

- (1) Where land to which this plan applies is used for the purposes of an educational establishment, the site and facilities of the establishment may, with development consent, be used for the purpose of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community purpose, whether or not any such use is a commercial use of the land.

Clause 49 Baulkham Hills Local Environmental Plan 2005

Part 3 Special provisions

- (2) Nothing in this clause requires development consent to be granted for the carrying out of development on any land if that development could, but for this clause, be carried out on that land without development consent.

49 Temporary use of non-residential land

- (1) This clause applies to all land to which this plan applies other than land within Zone 2 (a), 2 (a1), 2 (a2), 2 (a3), 2 (a4), 2 (b), 2 (c), 2 (d) or 2 (e).
- (2) Despite any other provision of this plan, a person may, without development consent, carry out development of land to which this clause applies for the purpose of a market, circus, auction, or for a community purpose, for a maximum of 14 days in any calendar year.
- (3) A person must not carry out any such development unless the person has given the Council a notice of the person's intention to carry out the development and at least 28 days have elapsed since the notice was given. Such a notice only operates in relation to development carried out within 12 months of the date on which the notice is given.

50 Roads providing access to a public road

A road that provides access to an existing public road must not be opened unless development consent has been obtained for construction of the road.

51 Vehicular access from urban land to a classified road

- (1) This clause applies to all land within Zone 2 (a), 2 (a1), 2 (a2), 2 (a3), 2 (a4), 2 (b), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 3 (c), 4 (b) or 10 (a).
- (2) A person must not carry out development on land to which this clause applies, being land that adjoins a classified road, unless vehicular access to and from the land is made by way of another road (not being a classified road).
- (3) However, if subclause (2) is the only requirement that prevents the development from being able to be carried out, consent may be granted to allow that development even though it will require permanent vehicular access to and from a classified road, but only if, in the opinion of the consent authority, alternative access to the site of the proposed development is neither practical nor able to be provided by another road (or by a proposed road identified in a development control plan).

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- (4) Despite clause 5 of *State Environmental Planning Policy No 11—Traffic Generating Developments*, before consenting to any development that will require access to a classified road, the consent authority must:

- (a) give notice of the proposal to the Roads and Traffic Authority, and
- (b) take into account any response made by that Authority within 21 days of the notice being given,

unless the consent authority is required to forward a copy of the development application to that Authority because the development is specified in Schedule 1 or 2 to that Policy.

52 Considerations for development along classified roads

- (1) This clause applies to land within Zone 1 (a), 1 (b) or 1 (c) that has, or is proposed to have, direct vehicular access to a classified road.
- (2) Consent must not be granted to the carrying out of development for the purpose of agricultural products establishments, caravan parks, clubs, educational establishments, firewood establishments, hospitals, institutions, landscape supply establishments, places of worship, reception establishments, recreation establishments, restaurants, retail plant nurseries, roadside stalls, service stations, stock and sale yards or waste disposal on land to which this clause applies unless the consent authority has given consideration to:
 - (a) the availability of access to the land from a road that is not a classified road, and
 - (b) the limits of visibility to and from existing or proposed points of egress and ingress, and
 - (c) the speed limit applicable to roads in the vicinity of the land, and
 - (d) road improvements necessary to render safe any existing or proposed pedestrian and vehicular egress and ingress points to the site, and
 - (e) any relevant requirements of the Roads and Traffic Authority, and
 - (f) local road conditions, and
 - (g) any recent accident history in the locality, and
 - (h) the potential for unsafe pedestrian movements, and
 - (i) the need for street lighting, and
 - (j) the visual impact of the proposed development.

Clause 53 Baulkham Hills Local Environmental Plan 2005

Part 3 Special provisions

53 Development that is prohibited along classified roads

Despite any other provision of this plan, consent must not be granted to development for the purpose of the following along a classified road:

- (a) convenience stores, service stations or shops, unless on land in Zone 3 (a),
- (b) restaurants, unless on land in Zone 1 (b), 1 (c), 2 (c) or 3 (a),
- (c) bulky goods retailing, unless on land in Zone 3 (a) or 3 (c).

54 Classification and reclassification of public land as operational land

- (1) The public land described in Schedule 5 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*, subject to this clause.
- (2) Land described in Part 1 of Schedule 5:
 - (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 the case requires, as operational land.
- (3) Land described in Columns 1 and 2 of Part 2 of Schedule 5, 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 description of the land in Column 3 of Part 2 of Schedule 5.
- (4) In this clause, the ***relevant amending plan***, in relation to land described in Part 2 of Schedule 5, means this plan, or, if the description of the land is inserted in that Part by another local environmental plan, that plan.
- (5) Before the relevant amending plan inserted the description of land into Part 2 of Schedule 5, the Governor approved of subclause (3) applying to the land.

55 Rouse Hill Regional Centre

- (1) Consent must not be granted to the carrying out of development on land within the Rouse Hill Regional Centre unless the Council has taken into consideration:
 - (a) the document entitled *Rouse Hill Regional Centre Background Report*, as adopted by the Council, and

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(b) any recommendations and observations made by the Department, with respect to the future provision of a rail link to and through the Rouse Hill Regional Centre.

- (2) In this clause, *Rouse Hill Regional Centre* means the land shown by distinctive colouring, edging or lettering on the map marked “Baulkham Hills Shire Council Local Environmental Plan 1991 (Amendment No 97)”.

56 Additional development allowed on certain land

- (1) Nothing in this plan prevents a person, with development consent, from carrying out development on land referred to in Column 1 of Schedule 6 if the development is specified in Column 2 of that Schedule in relation to that land, subject to such conditions (if any) as are so specified in Column 3 of that Schedule in relation to that land.
- (2) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted in respect of the development.

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Schedule 1 Heritage items

Schedule 1 Heritage items

(Clause 5 (1))

Part 1 Archaeological sites**Castle Hill Road**

Cumberland State Forest, Bellamy Quarry and Sawpit, Lots 1–7 and 15–17, DP 11133 and Lot 1, DP 343971, 89–97 Castle Hill Road, West Pennant Hills (Regional)

Glenhaven Road

House ruins, Lot 151, DP 869424, Cattai Creek Conservation Area Reserve No 416, No 194Z Glenhaven Road, Kellyville (Local)

Halcrows Road

Private burial ground, Lot 3, DP 701464, No 660 Halcrows Road, Cattai (Local)

Loyalty Road

Quarry, Lot 9, DP 248626, Excelsior South Reserve No 45, 10Z Loyalty Road, North Rocks (Local)

Ruins of stone cottage, Lot 1, DP 228581, Excelsior South Reserve No 45, 10Z Loyalty Road, North Rocks (Local)

O'Briens Road

Ruins of Merrymount, Lot 1, DP 571759, No 74 O'Briens Road, Cattai (Regional)

Old Northern Road

Baulkham Hills Tramway Cutting, Lot 929, DP 752028, George Suttor Reserve No 84, No 9Z Old Northern Road, Baulkham Hills (Local)

Original section of road, Lot 131, DP 752039, Crown Reserve No 74422, Old Northern Road, Maroota (Regional)

Original section of road, in front of Lot 100, DP 650454, Old Northern Road, Maroota (Regional)

Bypassed section of road, Lot 231, DP 752039, Crown Reserve R88205, Old Northern Road, Maroota (Regional)

Bypassed section of road, in front of Lot 238, DP 752039, Old Northern Road, Maroota (Regional)

Old Northern Road, the road, between Dural and Wisemans Ferry (State)

Convict road station, Lot 4, DP 228881, Old Northern Road, Wisemans Ferry (State)

Two quarries, Lot 4, DP 228881, Old Northern Road, Wisemans Ferry (Regional)

Baulkham Hills Local Environmental Plan 2005

Heritage items

Schedule 1

Watering hole, part of road reserve adjacent to Lot 471, DP 827645, Old Northern Road, Wisemans Ferry (Regional)

Bridge and culvert, part of road reserve, near Lot 4, DP 228881, Old Northern Road, Wisemans Ferry (Local)

Old Pitt Town Road

Bypassed section of road, within road reserve in front of Nos 162–170 Old Pitt Town Road, Box Hill (Local)

Old Windsor Road

Road, culvert and remnant post and rail fencing within the road reserve between Seven Hills Road and Windsor Road (State)

River Road

Convict built road (Mr Sharps Track), Lots 26 and 64, DP 752025, Nos 2275 and 2277–2349 River Road, Leetsvale and Lot 11, DP 1052320, Nos 2391–2429 River Road, Wisemans Ferry (State)

Convict built road (Mr Sharps Track), Crown Road Reserve between Lot 990, DP 818576 and Lot 11, DP 1052320 (between Nos 2475–2483 and 2391–2429 River Road), Wisemans Ferry (State)

Convict built road (Mr Sharps Track), within Crown land, Parish of Cornelia, (DP 752025), Wisemans Ferry (State)

Speers Road

Retaining wall, Lot 171, DP 23173, Nos 23–27 Speers Road, North Rocks (Local)
Dam, Lot H, DP 438487, Speers Road Crown Reserve No 37, 19–21 Speers Road, North Rocks (Local)

Windsor Road

Stone bridge approaches and foundation plaque, Sydney Woollen Mills, Lot 1, DP 112482, Windsor Road, North Parramatta (Local)

Queens Arms Inn site, Lot 4001, DP 1024171, Windsor Road, Rouse Hill (Regional)

Wisemans Ferry Road

Quarry site, Lot 31, DP 136837, “The Ridge” No 196 Wisemans Ferry Road, Cattai (Local)

Drainage trench and gate, Pt Lot 40, DP 752039, Nos 21 and 50 Wisemans Ferry Road, Cattai (Local)

Slab hut ruin and quarry site, Lot 37, DP 752039, and Pt Lot 38, DP 136838, No 76 Wisemans Ferry Road, Cattai (Local)

Old Caddie Homestead foundations and european dugout canoe, Lot 2, DP 605329, Nos 2–18 Wisemans Ferry Road, Cattai (Regional) (State)

Baulkham Hills Local Environmental Plan 2005

Schedule 1 Heritage items

Hope Farm Windmill (State), Hope Farm Mill Granary (Regional) and Stockmans Cottage foundations (Regional), Pt Lot 40, DP 752039, Wisemans Ferry Road, Cattai Horseworks, Lot 1, DP 605329, Cattai National Park, Nos 20–34 Wisemans Ferry Road, Cattai (Local)

Great drain and stone cut foundations, Lot 10, DP 752039, Stone Drain Reserve No 509, Wisemans Ferry Road, South Maroota (Regional)

Part 2 Buildings, trees and works**Acres Road**

House, Lot 44, DP 235228, No 29 Acres Road, Kellyville (Local)

Annangrove Road

House, Lot 1, DP 135820, No 37 Annangrove Road, Annangrove (Local)

House, Lot 1, DP 229987, No 44 Annangrove Road, Annangrove (Local)

House, Lot 2, DP 529043, No 221 Annangrove Road, Annangrove (Local)

House, Lot 3, DP 222080, No 288 Annangrove Road, Rouse Hill (Local)

Aberdour Avenue

Rouse Hill Cemetery, Lot 50 and Pt Lot 51, DP 193021, Nos 10 and 12 Arberdour Avenue, Rouse Hill (Local)

Banks Road

House, Lot E, DP 361052, No 7 Banks Road, Castle Hill (Local)

Bettington Road

“Strathallen”, Lots 1–29, SP 46498, No 49 Bettington Road, Oatlands (Local)

Bevan Place

“Havilah”, stables, Lot 202, DP 803443, No 25 Bevan Place, Carlingford (Local)

“Havilah House”, Lot 3, DP 788924, No 29 Bevan Place, Carlingford (Local)

Blue Gum Road

House, Pt Lot 4, DP 236989, No 7 Blue Gum Road, Annangrove (Local)

Boundary Road

House, Pt Lot 106, DP 332184, Nos 489–491 Boundary Road, Maraylya (Local)

Campbell Road

“Sunnycrest”, Lot 3, DP 586786, No 2 Campbell Road, Kenthurst (Local)

Baulkham Hills Local Environmental Plan 2005

Heritage items

Schedule 1

Caprera Road

“Caprera House”, Lot 21, DP 834190, No 63 Caprera Road, Northmead (Local)

Castle Hill Road

“Glenhope”, Lot 7, DP 1012463, No 113 Castle Hill Road, West Pennant Hills (State)

“Dunrath”, Lot 1, DP 220867, No 139 Castle Hill Road, West Pennant Hills (Local)

“Fairholme”, Lot 1, DP 135921, Lot 2, DP 135921 and Lot A DP 329990, No 157 Castle Hill Road, Castle Hill (Local)

Cattai Ridge Road

Slab hut, Lot 31, DP 872356, No 2A Cattai Ridge Road, Maraylya (Local)

House, Lot 2, DP 402457, No 41 Cattai Ridge Road, Glenorie (Local)

House, Lot 3, DP 624003, No 79 Cattai Ridge Road, Glenorie (Local)

“Abergeldie”, Lot 1, DP 540834, No 95 Cattai Ridge Road, Glenorie (Local)

House, Lot 1, DP 316917, No 124 Cattai Ridge Road, Glenorie (Local)

Chapel Hill Road

Uniting church and cemetery, Lot 1, DP 817086, No 520 Chapel Hill Road, Sackville North (Regional)

The Parsonage, uniting church and cemetery, Lot 3, DP 740110, No 560 Chapel Hill Road, Sackville North (Regional)

Coonara Avenue

“Erambie Park”, Lot 2032, DP 862072, No 37 Coonara Avenue, West Pennant Hills (Local)

Cranstons Road

“Broadlands”, Lot 2, DP 624488, No 15 Cranstons Road, Middle Dural (Local)

House, Lot 1, DP 514642, No 45 Cranstons Road, Middle Dural (Local)

Cross Street

House, Lot 1, DP 213055, No 31 Cross Street, Baulkham Hills (Local)

Derriwong Road

Uniting Church Cemetery, Lot 1, DP 195296, No 14 Derriwong Road, Dural (Local)

Baulkham Hills Local Environmental Plan 2005

Schedule 1 Heritage items

Ellis Street

Cottage, Lot 22, DP 618939, No 15 Ellis Street, Oatlands (Local)

Englart Place

“Chelsea Farm”, Lot 9, DP 255911, Nos 8 and 10 Englart Place, Baulkham Hills (Regional)

Norfolk Pine *Araucaria leterophylla*, marking original location of driveway for Chelsea Farm, Lot 11, DP 255911, No 14 Englart Place, Baulkham Hills (Local)

Excelsior Avenue

“Bellerive”, Lot 1, DP 516491, Nos 164 and 166 Excelsior Avenue, Castle Hill (Local)

Fuggles Road

House, Lot 5, DP 534130, No 11 Fuggles Road, Kenthurst (Local)

Garemyn Road

House, Lot 1, DP 214398, No 12 Garemyn Road, Middle Dural (Local)

Garthowen Crescent

“Garthowen”, Lot 2, DP 533390, No 14 Garthowen Crescent, Castle Hill (Local)

Gilbert Road

Cemetery, RE 22886, Gilbert Road, Castle Hill (Local)

Gleeson Avenue

Bunya Pine *Araucaria bidwillii*, marking original driveway for Chelsea Farm, Lot 1, DP 244012, Tony Burn Reserve No 171, 13Z Gleeson Avenue, Baulkham Hills (Local)

Glenhaven Road

“Rosenfels”, Lot 1, DP 602286, No 23 Glenhaven Road, Glenhaven (Local)

Emmanuel Anglican Church, Lot 1, DP 570746, Glenhaven Road, Glenhaven (Local)

Glenroy Place

“Glenroy”, cottage, Lot 1, DP 253879, No 1 Glenroy Place, Middle Dural (Local)

Greyfriar Place

“Mount Saint Francis”, Lot 5, DP 1040498, No 8 Greyfriar Place, Kellyville (Local)

Baulkham Hills Local Environmental Plan 2005

Heritage items

Schedule 1

Hafey Road

House and barn, Lot 4, DP 239886, No 1 Hafey Road, Kenthurst (Local)

Halcrows Road

Felton Mathew Marked Tree, Lot 18, DP 752039, Halcrows Road, Cattai (Regional)

“Rose Park”, Lot 152, DP 1019110, Nos 657–701 Halcrows Road, Cattai (Local)

William Daley’s grave, Lot 152, DP 1019110, Nos 657–701 Halcrows Road, Cattai (Local)

Henry Street

“The Palms”, Lot 1, DP 23482, Henry Street, Baulkham Hills (Local)

“Yootha Park”, Lot 7, DP 221937, No 11 Henry Street, Baulkham Hills (Local)

Hession Road

House, Lot 21, DP 565883, No 11 Hession Road, Nelson (Local)

Hezlett Road

House, Lot 222, DP 207779, No 25 Hezlett Road, Kellyville (Local)

“Yalta”, house and immediate garden, Lot B, DP 374973, No 45 Hezlett Road, Kellyville (Local)

Highs Road

“Pine Ridge”, Lot 1, DP 1037463, No 11 Highs Road, West Pennant Hills (Local)

Hilton Place

Cottage, Lot 1, DP 260257, No 1 Hilton Place, Kenthurst (Local)

Jones Road

“Lavender Cottage”, Lot 3, DP 519461, No 45A Jones Road, Kenthurst (Local)

Kenthurst Road

Hill Top, Lot 1, DP 34815, No 31 Kenthurst Road, Dural (Local)

House, Lot 2, DP 1039194, Nos 54–56 Kenthurst Road, Kenthurst (Local)

House, Lot 43, DP 584117, No 70 Kenthurst Road, Kenthurst (Local)

Former St Madeleine Sophie Borat Catholic Church, Lot 2, DP 943767, No 114A Kenthurst Road, Kenthurst (Local)

Kenthurst Literary Institute, Lot 12, DP 758558, No 131 Kenthurst Road, Kenthurst (Local)

Baulkham Hills Local Environmental Plan 2005

Schedule 1 Heritage items

Langford Smith Close

House, Lot 1, DP 1039914, No 19 Langford Smith Close, Kellyville (Local)

Lawrence Road

House, Lot 1, DP 134911, No 1 Lawrence Road, Kenthurst (Local)

House, Lot 3, DP 549342, No 11 Lawrence Road, Kenthurst (Local)

Mackillop Drive

St Joseph's Novitiate, Lot 2, DP 817696, No 64 Mackillop Drive, Baulkham Hills (Local)

Margaret Street

"The Pines", Lots 1–9, SP 41791, No 7 Margaret Street, Northmead (Local)

House, Lot 2, DP 591111, No 29 Margaret Street, Northmead (Local)

Marieba Road

House, Lot 63, DP 731202, No 2 Marieba Road, Kenthurst (Local)

Mary Street

House, Lot 63, DP 8884, No 20 Mary Street, Northmead (Local)

McLeod Road

"Cranston Cottage", Lot 1, DP 244143, No 7 McLeod Road, Dural (Local)

Melia Court

Gate and gateposts, Lot 2010, DP 879431, No 36 Melia Court, Castle Hill (Local)

Mile End Road

"Aberdoon", house, Lot 1, DP 1016540, Mile End Road, Rouse Hill (Local)

Mount View Road

"Longstone House", Lot 2, DP 538286, Mount View Road, Glenorie (Local)

Mud Island Road

"Kelso Park", Lot 3, DP 804271, No 422 Mud Island Road, Sackville North (Regional)

Nelson Road

"Rosedale", Lot 2, DP 565176, No 55 Nelson Road, Nelson (Regional)

House, Lot 1, DP 999853, No 61 Nelson Road, Nelson (Regional)

Baulkham Hills Local Environmental Plan 2005

Heritage items

Schedule 1

North Rocks Road

“Rockcliff”, Lot 7, DP 234271, No 224 North Rocks Road, North Rocks (Local)
“Fernleigh”, Lot 20, DP 600123, No 256 North Rocks Road, North Rocks (Local)
House and outbuilding, Lot 12, DP 542855, No 381 North Rocks Road, Carlingford (Local)

O’Briens Road

“Bungool” (Riverside Oaks), Lot 11, DP 605831, No 74 O’Briens Road, Cattai (Regional)

Old Castle Hill Road

House, Lot 1, DP 585257, No 108 Old Castle Hill Road, Castle Hill (Local)

Old Northern Road

“Creasy’s”, Lots 16 and 17, DP 2489, Nos 11 and 13 Old Northern Road, Baulkham Hills (Local)
House, Lot 23, DP 739791, No 37 Old Northern Road, Baulkham Hills (Local)
House, Lot 2, DP 207936, No 60 Old Northern Road, Baulkham Hills (Local)
House, Lot B, DP 420528, No 67 Old Northern Road, Baulkham Hills (Local)
House, Lot 1, DP 1007799, No 77 Old Northern Road, Baulkham Hills (Local)
House, Lot 34, DP 129827, No 84 Old Northern Road, Baulkham Hills (Local)
House, Lot D, DP 370382, No 92 Old Northern Road, Baulkham Hills (Local)
House, Lot A, DP 333643, No 118 Old Northern Road, Baulkham Hills (Local)
House, Lot 84, DP 846106, No 121 Old Northern Road, Baulkham Hills (Local)
House, Lot 15, DP 845564, No 133 Old Northern Road, Baulkham Hills (Local)
House, Lot 14, DP 845564, No 135 Old Northern Road, Baulkham Hills (Local)
House, Lot 1, DP 562174, No 171 Old Northern Road, Castle Hill (Local)
Durham Park, Lot 8, DP 1014035, No 8/174 Old Northern Road, Castle Hill (Local)
House, Lot 1, DP 209652, No 182 Old Northern Road, Baulkham Hills (Local)
Gilroy College, Lot 1, DP 850203 and Lots 9, 10 and 43 to 51, DP 10049, Nos 190 and 192 Old Northern Road, Baulkham Hills (Local)
The Old Parsonage, Lot X, DP 418941, No 210 Old Northern Road, Castle Hill (Local)
Castle Hill House, Lot 234, DP 1005876, Nos 215–219 Old Northern Road, Castle Hill (Local)
Former St Paul’s Church, Lot 120, DP 817356, Nos 221–225 Old Northern Road, Castle Hill (Local)
“Wansbrough House”, Lot 4, DP 533918, No 230 Old Northern Road, Castle Hill (Local)

Baulkham Hills Local Environmental Plan 2005

Schedule 1 Heritage items

House, Lot 81, DP 1017047, No 244 Old Northern Road, Castle Hill (Local)
 St Paul's Cemetery, Lot 1, DP 1043643, No 245 Old Northern Road, Castle Hill (Local)
 Christadelphian Church, Lot 1, DP 1043643, No 245 Old Northern Road, Castle Hill (Local)
 Castle Hill Public School, Lot 101, DP 1000798, Nos 264 and 266 Old Northern Road, Castle Hill (Local)
 Former police station, Lot 101, DP 1000798, Nos 264 and 266 Old Northern Road, Castle Hill (Local)
 House, Lot 1, DP 530501, No 342 Old Northern Road, Castle Hill (Local)
 House, Pt Lot 2, DP 568234, No 428 Old Northern Road, Glenhaven (Local)
 "Allens House", Lot 37, DP 715200, No 548 Old Northern Road, Round Corner, Dural (Local)
 House, Lot 101, DP 713628, No 600 Old Northern Road, Dural (Local)
 Dural Soldiers Memorial Hall, Lot 1, DP 656035, No 604 Old Northern Road, Dural (Local)
 "The Pines", Lot 11, DP 734457, Reserve No 555, No 656A Old Northern Road, Dural (Local)
 "St Elmo", Lot D, DP 164591, No 774 Old Northern Road, Dural (Local)
 "Pinewood", Lot 2, DP 416521, No 792 Old Northern Road, Middle Dural (Local)
 "Carinya", Lot 2, DP 225210, No 828 Old Northern Road, Middle Dural (Local)
 House and barn, Lot 2, DP 231508, No 834 Old Northern Road, Middle Dural (Local)
 McFarland Grave, 4 metres from centreline of Old Northern Road and 368 metres north of its intersection with Wisemans Ferry Road, Maroota (Local)
 Residence and post office, Lot 1, DP 724948, Old Northern Road, Wisemans Ferry (Local)
 Cable ferry, Old Northern Road, Wisemans Ferry (Regional)

Old Post Office Road

House, Lot 1, DP 731792, No 4 Old Post Office Road, Cattai (Local)

Owen Avenue

"Thornbury Lodge", Lots 1–4, SP 48323, Lots 7–11, SP 53479 and Lots 12–14, SP 57590, Nos 9–13 Owen Avenue, Baulkham Hills (Local)

Pages Wharf Road

"Pagewood", Lot 41, DP 752025, No 165 Pages Wharf Road, Sackville North (Local)

Baulkham Hills Local Environmental Plan 2005

Heritage items

Schedule 1

Park Road

House, Lot 2, DP 228420, No 15 Park Road, Baulkham Hills (Local)

Pennant Hills Road

“Gowan Brae Group”, comprising “Gowan Brae House”, Kings School Chapel, gatehouse and fence, aviary, fountain, rotunda, “The Cedars”, grave, 19th century driveways and stables, iron palisade fence, and horseshoe bridge/dam and roadway, Lot 1, DP 59169, Lot A, DP 329288, Lot B, DP 329288, Lot A, DP 321595, Lot 2, DP 235857, Lot 1, DP 64765, Lot 1, DP 57491, Lot 1, DP 581960 and Lot 10, DP 812772 (Local)

House, Pt Lot 1, DP 19868, No 157 Pennant Hills Road, Carlingford (Local)

House, Lot A, DP 385271, No 159 Pennant Hills Road, Carlingford (Local)

“Stoneleigh”, Lot B, DP 316050, No 570 Pennant Hills Road, West Pennant Hills (Local)

Pitt Town Road

House, Lot 1, DP 242302, No 29 Pitt Town Road, Kenthurst (Local)

Fence, Lot 1, DP 549076, No 46 Pitt Town Road, Kenthurst (Local)

House, Pt Lot 7, DP 135642, No 50 Pitt Town Road, Kenthurst (Local)

“Speedwell”, Lot 3, DP 586852, No 68 Pitt Town Road, Kenthurst (Local)

Cottage, Lot 1, DP 561074, No 78 Pitt Town Road, Kenthurst (Local)

House and barn, Lot 101, DP 598991, No 79 Pitt Town Road, Kenthurst (Local)

Porters Road

House, Lot 2, DP 550216, No 17 Porters Road, Kenthurst (Local)

House, Lot 2, DP 255779, No 40 Porters Road, Kenthurst (Local)

“Maranoa”, Lot 6, DP 585099, No 42A Porters Road, Kenthurst (Local)

House, Lot 301, DP 713628, No 75 Porters Road, Kenthurst (Local)

Pye Avenue

Pye’s Cottage, Lots 1–25, SP 64724, Nos 11 and 13 Pye Avenue, Northmead (Local)

River Road

Slab barn, Lot 2, DP 611810, No 276 River Road, Lower Portland (Local)

“Dargle”, Lot 1, DP 109718, Nos 351 and 353 River Road, Lower Portland (Regional)

Church, Lot 11, DP 818829, No 576 River Road, Lower Portland (Local)

“Peacocks”, Lot 12, DP 818829, No 578 River Road, Lower Portland (State)

House, Lot 2, DP 544316, Nos 827 and 829 River Road, Lower Portland (Local)

Baulkham Hills Local Environmental Plan 2005

Schedule 1 Heritage items

Brown's Cemetery, Lot 2, DP 34182, No 875 River Road, Lower Portland (Local)
Rexford, Lot 1, DP 75366, No 1073 River Road, Lower Portland (Local)
Stone dairy and fig tree, Lot 8, DP 236370, No 1324 River Road, Lower Portland (Local)
"Berry Hill", house, Lot 119, DP 752025, No 1832 River Road, Leets Vale (Local)
House, Lot 2, DP 230496, No 2449 River Road, Wisemans Ferry (Local)
House, Lot 2, DP 506468, No 3014 River Road, Wisemans Ferry (Local)
St Mary Magdalene Anglican Church, Pt Lot 37, DP 752025, No 3025 River Road, Wisemans Ferry (Local)
Police station and residence, Lot 36, DP 752025, No 3031 River Road, Wisemans Ferry (Local)
Cable ferry, Lower Portland, River Road, Lower Portland (Local)
Cable ferry, Webbs Creek, River Road, Wisemans Ferry (Local)

Robbins Road

"Marklye", Lot 2, DP 712726, Robbins Road, Box Hill (Local)

Sackville Ferry Road

Cemetery, Lot 7009, DP 93097, No 437 Sackville Ferry Road, Sackville North (Local)
Brewongle Environmental Education Centre, Pt Lot 1, DP 121420, Nos 720–728 Sackville Ferry Road, Sackville North (Local)
Cable ferry, Sackville Ferry Road, Sackville (Local)

Seven Hills Road

House, Lot 10, DP 858072, No 51 Seven Hills Road, Baulkham Hills (Local)
Pearce Family Graves, Lot 100, DP 707538, Seven Hills Road, Baulkham Hills (Regional)

Showground Road

House, Lot 1, DP 840031, Nos 30–34 Showground Road, Castle Hill (Local)
"Dogwoods", Lot 202, DP 551843, No 74 Showground Road, Castle Hill (Local)
House, Lot 1, DP 578072, No 107 Showground Road, Castle Hill (Local)
House, Lot 406, DP 860609, Nos 128–132 Showground Road, Castle Hill (Local)

Stone Cottage Court

House, Lot 6, DP 270304, No 9 Stone Cottage Court, Castle Hill (Local)

Success Avenue

"Baden Farm", Lot 503, DP 878047, No 6 Success Avenue, Kellyville (Local)

Baulkham Hills Local Environmental Plan 2005

Heritage items

Schedule 1

Terry Road

McCall Garden Colony, Lot 1, DP 27502, Nos 10–32 Terry Road, Box Hill (Local)

Thallon Street

Carlingford Stock Feeds, Lot 1, DP 515583 and Lot 2, DP 503904, No 1 Thallon Street, Carlingford (Local)

The Water Lane

Former Hunting Lodge, Lot 174, DP 10157, The Water Lane, Box Hill (Regional)

Valerie Avenue

Joyce Farmhouse, Lots 36 and 46, DP 238502, Nos 15 and 15A Valerie Avenue, Baulkham Hills (Regional)

Windermere Avenue

Houses, Lot 101, DP 1028723, Nos 3–7 Windermere Avenue, Northmead (Local)

House, Lot 371, DP 878936, No 10 Windermere Avenue, Northmead (Local)

House, Lot 33, DP 8884, No 18 Windermere Avenue, Northmead (Local)

Windsor Road

Avenue of trees leading to Castle Hill Country Club, Lot 12, DP 778671, RMB 49, Windsor Road, Baulkham Hills (Local)

House, Lot 9, DP 621494, Nos 9 and 11 Windsor Road, Kellyville (Local)

Kellyville Public School, Lot 1, DP 439294, Lot 1, DP 782320 and Lot 20, DP 206082, No 35A Windsor Road, Kellyville (Local)

“Buena Vista”, Lot 43, DP 847331, No 43 Windsor Road, Kellyville (Regional)

House, Lot 4, Sec 1, DP 6436, No 97 Windsor Road, Northmead (Local)

House, Lot 1, DP 938130, Nos 115 and 117 Windsor Road, Northmead (Local)

House, Lot 1, DP 946630, No 119 Windsor Road, Northmead (Local)

House, Lot 1, DP 863720, No 145 Windsor Road, Northmead (Local)

“The Pines”, Lot 11, SP 50794, Nos 153 and 155 Windsor Road, Northmead (Local)

House, Lot 3, DP 14725, No 175 Windsor Road, Northmead (Local)

House, Lot 41, DP 841313, No 177 Windsor Road, Northmead (Local)

House, Lot 5, DP 8884, No 179 Windsor Road, Northmead (Local)

House, Lot 6, DP 8884, No 181 Windsor Road, Northmead (Local)

House, Lots 7 and 8, DP 8884, Nos 183 and 185 Windsor Road, Northmead, (Local)

House, Lot 109, DP 815682, Nos 187 and 189 Windsor Road, Northmead (Local)

House, Pt Lot 1, DP 500482, No 209 Windsor Road, Northmead (Local)

House, Lot 3, DP 843608, No 215 Windsor Road, Northmead (Local)

Baulkham Hills Local Environmental Plan 2005

Schedule 1 Heritage items

Windsor Road from Baulkham Hills to Box Hill (State)
 House, Lots 1–8, SP 66335, No 227 Windsor Road, Northmead (Local)
 House, Lot 1, DP 26848, No 243 Windsor Road, Northmead (Local)
 House, Lot 1, DP 780848, No 245 Windsor Road, Northmead (Local)
 Baulkham Hills Public School, Lot 1, DP 866897, No 257 Windsor Road, Baulkham Hills (Local)
 Bull and Bush Hotel, Lot 2, DP 783941, Nos 360–378 Windsor Road, Baulkham Hills (Regional)
 House, Lot 5, DP 31331, No 389A Windsor Road, Baulkham Hills (Local)
 Norfolk Pine *Araucaria heterophylla*, marking original entrance to Chelsea Farm, Lot 6, DP 255472, No 468 Windsor Road, Baulkham Hills (Local)
 Norfolk Pine *Araucaria heterophylla*, marking original entrance to Chelsea Farm, Lot 7, DP 255472, No 470 Windsor Road, Baulkham Hills (Regional)
 St Michael’s Church, Lot 100, DP 711470, No 520 Windsor Road, Baulkham Hills (Local)
 House, Lot 10, DP 615435, No 523 Windsor Road, Baulkham Hills (Local)
 Alliance Church, Lot 21, DP 852062, Windsor Road, Baulkham Hills (Local)
 Former Divine Word Mission, Lot 1003, DP 857115, Windsor Road, Kellyville (Local)
 Christchurch, Lot 1, DP 1033065, Windsor Road, Rouse Hill (Local)
 Bridge structures below Windsor Road at Second Ponds Creek, Rouse Hill (Regional)
 Mungerie, Lot 15, DP 833071, Windsor Road, Rouse Hill (Local)
 Royal Oak Inn, Lot 101, DP 1058862, Windsor Road, Rouse Hill (Regional)
 Rouse Hill Public School, Lot 1, DP 521503, Lot 2, DP 241463 and Lot 100, DP 1044226, Windsor Road, Rouse Hill (Local)
 Former inn, Lot 11, DP 1009338, Windsor Road, Box Hill (Regional)

Wisemans Ferry Road

“Caddie House” (Regional), barn (Local), silo and outbuildings (Local), Lot 2, DP 605329, Nos 2–18 Wisemans Ferry Road, Cattai
 “Hope Farm House” (Regional), “Hope Farm Cottage” (Local), outbuilding and mill ruins (Local), Pt Lot 40, DP 752039, No 50 Wisemans Ferry Road, Cattai
 Slab hut, Lot 21, DP 843427, 69 Wisemans Ferry Road, Cattai (Local)
 “Johnstons”, Pt Lot 38, DP 136838 and Lot 37, DP 752039, No 76 Wisemans Ferry Road, Cattai (Local)
 “Montrose”, Lot 101, DP 807427, No 96 Wisemans Ferry Road, Cattai (Local)
 “Terry Mount”, Lot 31, DP 136837, No 196 Wisemans Ferry Road, Cattai (Local)
 “Stonehouse Grove”, Lot 12, DP 811777, 1365 Wisemans Ferry Road, Cattai (Local)

Baulkham Hills Local Environmental Plan 2005

Heritage items

Schedule 1

Withers Road

House and barn, Lot 1, DP 773411, No 9 Withers Road, Kellyville (Local)

“Lintbrae”, house, Lot 1, DP 540785, Withers Road, Kellyville (Local)

Private burial ground, Lot 202, DP 858563, William Harvey Reserve No 405, Withers Road, Rouse Hill (Local)

Wrights Road

House, Lot 1, DP 513521, No 42 Wrights Road, Kellyville (Local)

Part 3 Heritage conservation areas

Balcombe Heights Community Buildings Complex, Seven Hills Road, Baulkham Hills (Regional)

Bella Vista Homestead Complex, Old Windsor Road, Baulkham Hills (State)

Old Government Farm Site (Heritage Park), Old Northern Road, Castle Hill (State)

Burnside Homes, Pennant Hills Road, North Parramatta (State)

Baulkham Hills Local Environmental Plan 2005

Schedule 2 Exempt development

Schedule 2 Exempt development

(Clause 8)

Development consisting of the erection and use or carrying out of the following:**Exemption requirements****Access ramps for the disabled**

- Maximum height 1m (above ground level).
- Maximum grade 1:14.
- Structurally adequate construction.
- Compliance with any relevant provisions of the *Building Code of Australia*.

Advertising

(including the erection of a structure or the carrying out of a work)—a display of symbols, messages or other devices for promotion or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure, or the carrying out of a work, which relates to the use of the building

The following requirements apply, subject to any additional requirements below:

1 Business identification signs where home activities are allowed

- No moving or flashing sign or other device.
- No roof-top signs.
- No airborne signs or blimps.
- No A-frame boards or signs.
- Advertising structures over public roads to be set back at least 600mm from carriageway edge.
- The advertising must relate to the use of the building on (or on the land on) which it is displayed.
- Compliance with any relevant provisions of the *Building Code of Australia*, including Part B1 (Structural Provisions) in Section B (Structure).
- One per premises.
- Signs not exceeding 0.75m² in area.
- Located wholly within the property boundaries.
- Must not be illuminated.
- Maximum height of a freestanding sign above ground level 1.2m.
- Compliance with any relevant requirements of the *Building Code of Australia*.

Baulkham Hills Local Environmental Plan 2005

Exempt development

Schedule 2

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|---|
| 2 Real estate signs (advertising premises/land for sale or rent) in areas zoned residential or rural or commercial | <ul style="list-style-type: none"> • One sign per premises or street frontage, whichever is the greater. • Only until sale or leasing of the dwelling. • Each sign not exceeding 2.5m² in area. • Located wholly within the property boundary or attached to the existing boundary fence and not projecting more than 100mm from the fence. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| 3 Advertisements within a site but not visible from a public place | <ul style="list-style-type: none"> • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| 4 Public notice displayed by a public body giving information or directions about the services provided | <ul style="list-style-type: none"> • One sign per 20m of street frontage, per premises. • Signs not exceeding 3.5m² in area. • Located wholly within the property boundary or attached to the existing boundary fence and not projecting more than 100mm from the fence. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| 5 Temporary signs for religious, cultural, political, social or recreational events | <ul style="list-style-type: none"> • One per street frontage. • Not exceeding 1.5m² in residential areas and 3.5m² in commercial and industrial areas. • Located wholly within the property boundary. • Does not include commercial advertising apart from name of event sponsor(s). • Not displayed earlier than 28 days before event and must be removed within 14 days after the event. • Construction by or for the Council. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| 6 Street signs comprising name plates, directional signs and advance traffic warning signs | <ul style="list-style-type: none"> • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |

Baulkham Hills Local Environmental Plan 2005

Schedule 2 Exempt development

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|---|--|
| <p>Aerials/antennae/microwave antennae (not including satellite dishes—dealt with as separate provision)</p> | <ul style="list-style-type: none"> • For domestic use only. • Structurally adequate construction. • Maximum number of 3 aerials. • Maximum height 6m. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| <p>Air conditioning units for dwellings (attached to external wall or ground mounted)</p> | <ul style="list-style-type: none"> • Noise level not to exceed 5dB(A) above ambient background noise level measured at the property boundary. • Building work must not reduce the structural integrity of the building. • Any opening created is to be adequately weatherproofed. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| <p>Awnings, canopies and storm blinds on dwellings</p> | <ul style="list-style-type: none"> • Maximum area 20m². • Maximum height 2.4m. • Located behind the building setback and minimum 500mm from property boundaries. • Structurally adequate construction. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| <p>Barbecues</p> | <ul style="list-style-type: none"> • Maximum area of 2m². • Maximum chimney height of 2m above natural ground level. • Located in rear yard area or, if behind a courtyard wall, with no greater than 200mm of the chimney above the wall. • Structurally adequate construction. • Not located adjoining a property boundary. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |

Baulkham Hills Local Environmental Plan 2005

Exempt development

Schedule 2

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|---|---|
| <p>Bird aviaries an enclosure in which birds are kept for domestic purposes only</p> | <ul style="list-style-type: none"> • Maximum area 10m² total cumulative area. • Maximum height 2.1m above natural ground level. • Non-reflective materials. • Located in rear yard and not closer than 500mm from an adjoining property boundary. • Located a minimum 9m from any dwelling on an adjoining property. • Structurally adequate construction. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| <p>Cabanas/gazebos and greenhouses</p> | <ul style="list-style-type: none"> • Maximum area 10m². • Maximum height 2.4m. • Not to be used for habitable purposes. • Stormwater to be connected to existing stormwater system. • Structurally adequate construction. • Non-reflective surface finishes. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. • Located in the rear yard and not closer than 500mm from an adjoining property boundary. • Compliance with site coverage requirements in Council's relevant DCPs. |
| <p>Car ports</p> | <ul style="list-style-type: none"> • Maximum area 20m². • Maximum height 2.4m. • Located behind the building setback. • Minimum 500mm from the side and rear boundaries. • Structurally adequate construction. • Stormwater to be connected to the existing stormwater system. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |

Baulkham Hills Local Environmental Plan 2005

Schedule 2 Exempt development

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|--|
| Classrooms—portable | <ul style="list-style-type: none"> • On land which a school is situated. • Height of portable classroom not exceeding 1 storey. • Use of portable classroom for not more than 5 years after the date of its erection. • Must comply with the minimum road frontage setbacks as required by any locality DCP applying to the subject land. • Must be set back a minimum of 3m from a side or rear boundary, and 3m from any other building on the site. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Clothes hoists/lines | <ul style="list-style-type: none"> • Installed to manufacturer's specifications. |
| Cubbyhouses | <ul style="list-style-type: none"> • Must be installed in accordance with manufacturer's instructions and comply with any relevant Australian Standards (AS 1924.1—1981, <i>Playground equipment for parks, schools and domestic use, Part 1: General requirements</i>, AS 1924.2—1981, <i>Playground equipment for parks, schools and domestic use, Part 2: Design and construction—Safety aspects</i> and AS/NZS 4486.1:1997, <i>Playgrounds and playground equipment, Part 1: Development, installation, inspection, maintenance and operation</i>). • Structure must be at least 1.2m away from a pool safety fence measured in accordance with AS 1926.2—1995, <i>Swimming pool safety, Part 2: Location of fencing for private swimming pools</i>. • Maximum height 2.1m. • Maximum area 10m². • Structurally adequate construction on a uniformly stable foundation. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |

Baulkham Hills Local Environmental Plan 2005

Exempt development

Schedule 2

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|---|--|
| <p>Decks (unroofed and attached to dwellings that are not located in areas identified by Council as bush fire prone)</p> | <ul style="list-style-type: none"> • Maximum area 10m². • Finished surface level to be not greater than 1m above existing ground level. • Boundary setbacks for existing dwelling to be maintained. • Structurally adequate construction. • Complies with any site coverage requirements. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Demolition | <ul style="list-style-type: none"> • Where erection of the structure is exempt development under the provisions of this plan. • Demolition must be carried out in accordance with Australian Standard AS 2601—2001, <i>Demolition of structures</i>. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| <p>Fences (other than fences covered by the <i>Swimming Pools Act 1992</i>)</p> | <ul style="list-style-type: none"> • All fences are to be constructed so that they do not prevent the natural flow of stormwater drainage/run-off. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| 1 Boundary fences | |
| (a) Side fences (between the building line and street or any other public place) and front fences. | <ul style="list-style-type: none"> • Maximum height 1m if constructed of timber, metal or lightweight materials. |
| (b) Side fences (between the building line and the rear boundary) and rear boundary fences. | <ul style="list-style-type: none"> • Maximum height 1.8m if constructed of timber, metal or lightweight materials. |
| 2 Masonry or brick fences | <ul style="list-style-type: none"> • Maximum height 1m. |
| 3 Security fences | <ul style="list-style-type: none"> • Chain wire type fences around Council-owned compounds and depots. |
| 4 Rural zones—electric fences, in areas zoned rural only | <ul style="list-style-type: none"> • To be erected in accordance with AS/NZS 3014:2003, <i>Electrical installations—Electric fences</i>. |

Baulkham Hills Local Environmental Plan 2005

Schedule 2 Exempt development

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|--|
| <p>Flagpoles in residential zones</p> | <ul style="list-style-type: none"> • Maximum height 6m above ground level. • Must be structurally adequate. • Installed to manufacturer's specifications. • If flagpoles are to project over a public road they must comply with the <i>Local Government (Approvals) Regulation 1999</i>. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| <p>Flagpoles in commercial or industrial zones</p> | <ul style="list-style-type: none"> • Maximum height 9m above natural ground level. • Consent needed for any corporate flags. • Must be structurally adequate. • Installed to manufacturer's specifications. • If flagpoles are to project over a public road they must comply with the <i>Local Government (Approvals) Regulation 1999</i>. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| <p>Fowl houses (for the keeping of chickens, hens and roosters), in areas zoned rural only</p> | <ul style="list-style-type: none"> • Must comply with the standards contained in the <i>Local Government (Orders) Regulation 1999</i>. • Maximum area 50m². • Must be structurally adequate. • Maximum height 3m. • Not more than one per property. • Non-reflective materials. • Adequate drainage must be provided. • Minimum 9m from any dwelling. |
| <p>Fuel tanks used in conjunction with agricultural activities on properties in excess of 2 hectares in areas zoned rural</p> | <ul style="list-style-type: none"> • Maximum size 5,000 litres. • Constructed of prefabricated metal, freestanding and not relying on other structures for support. • Erected in accordance with manufacturer's specification. • Kept in accordance with AS 1940—2004, <i>The storage and handling of flammable and combustible liquids</i>, including requirements for bunding. • Not to be erected within 20m of the street boundary or within 4m of a side or rear boundary. |

Baulkham Hills Local Environmental Plan 2005

Exempt development

Schedule 2

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|---|
| Garden sheds | <ul style="list-style-type: none"> • Wholly within the boundaries of the property and not to encroach on any registered easements. • Clearance from power lines to be in accordance with relevant electricity authority requirements. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. • Free-standing and prefabricated. • Maximum floor area 10m² cumulative. • Maximum height 2.1m. • Must be located in the rear yard of premises. • Non-reflective materials. • Installed to manufacturer's specifications. • Structurally adequate construction. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Horse stables (keeping up to 4 horses), and animal shelters in areas zoned rural only | <ul style="list-style-type: none"> • Must comply with the <i>Local Government (Orders) Regulation 1999</i>. • Maximum size 50m² and maximum height 3m. • Constructed of timber (cut or round) or metal. • Any cladding to have a low reflective finish and be fixed in accordance with manufacturer's specifications. • Erected within the boundaries of the property and not within 20m of a road boundary or 10m from the side or rear boundaries. • Not to encroach on any registered easement. • Structurally adequate construction. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Landscaping | <ul style="list-style-type: none"> • Landscaping works carried out in conjunction with other exempt development. |

Baulkham Hills Local Environmental Plan 2005

Schedule 2 Exempt development

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|---|---|
| Letter boxes (free standing or in “banks”) | <ul style="list-style-type: none"> • Maximum height of 1.2m above ground level. • Sufficient boxes to provide one for each occupancy. • Appropriate numbering for each box. • Structurally stable with adequate footings. • Located within property. |
| Minor alterations | |
| 1 Residential premises | |
| (a) Internal | <ul style="list-style-type: none"> • Applies only to replacement of doors, wall, ceiling or floor linings, or deteriorated frame members with equivalent or improved quality materials, and renovations of bathrooms, kitchens, inclusion of built-in fixtures such as vanities, cupboards and wardrobes. • Applies only to alterations or renovations to previously completed buildings. • Work not to cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| (b) External | <ul style="list-style-type: none"> • Being changes that involve the repair or renovation, or the painting, plastering or other decoration, of the building or work, but does not include the enlargement or extension of the building or work. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| 2 Commercial premises | |
| (a) Internal | <ul style="list-style-type: none"> • Non-structural work, such as shelving, displays, benches and partitions that do not provide structural support to any part of the building. • Floor area not to exceed 20m². • Work must not compromise fire safety or affect accessibility to a fire exit. |

Baulkham Hills Local Environmental Plan 2005

Exempt development

Schedule 2

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|---|
| (b) External | <ul style="list-style-type: none"> • Work must not include changes to the configuration of rooms whether by removal of walls or other means of structural support. • Food premises to comply with relevant provisions of the Food Standards Code within the meaning of the <i>Food Act 2003</i>. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. • Being changes that involve the repair or renovation, or the painting, plastering or other decoration, of the building or work, but does not include enlargement or extension of the building or work. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Patios at ground level abutting a dwelling | <ul style="list-style-type: none"> • Stormwater from patio surface not to be redirected into adjoining property. • Sufficient step down is to be provided to prevent the entry of water into the dwelling. • Structurally adequate construction. • Compliance with the site coverage control. |
| Pergolas | <ul style="list-style-type: none"> • Maximum area 20m². • Maximum height 2.4m. • Must maintain boundary setbacks required for the associated dwelling with a minimum of 900mm from a boundary. • Structurally adequate construction. • Compliance with the site coverage control. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Playground equipment (excluding cubbyhouses) | <ul style="list-style-type: none"> • Maximum height 2.1m. • Maximum ground coverage of 10m². |

Baulkham Hills Local Environmental Plan 2005

Schedule 2 Exempt development

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|---|--|
| (b) Non-residential use | <ul style="list-style-type: none"> • Structure must be at least 1.2m away from a pool safety fence measured in accordance with AS 1926.2—1995, <i>Swimming pool safety, Part 2: Location of fencing for private swimming pools</i>. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. • Maximum height 2.1m. • Maximum ground coverage of 10m². • Adequate safety arrangements, including soft landing surfaces to be provided. • Structure must be at least 1.2m away from a pool safety fence measured in accordance with AS 1926.1—1993, <i>Swimming pool safety, Part 1: Fencing for swimming pools</i>. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Privacy screens | <ul style="list-style-type: none"> • Maximum height 2.4m. • Maximum length 10m. • Must be installed in rear yard. • Construction of translucent materials. • Structurally adequate construction. • Must be free-standing and not attached to boundary fence without adjoining property owner's consent. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Re-cladding of roofs or walls or repair/maintenance of damaged materials | <ul style="list-style-type: none"> • Must only involve replacing existing materials with similar materials which are compatible with the existing building and finish. • Re-cladding must not involve structural alterations or change to the external configuration of a building. • Must comply with requirements of the WorkCover Authority relating to removal of lead paint and asbestos cement. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |

Baulkham Hills Local Environmental Plan 2005

Exempt development

Schedule 2

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|--|
| Retaining walls | <ul style="list-style-type: none"> • Maximum height 0.6m for retaining filling and maximum 1m for excavation. • Masonry walls to comply with: <ul style="list-style-type: none"> • AS 3700—2001, <i>Masonry structures</i>, • AS 3600—2001, <i>Concrete structures</i>, • AS/NZS 1170.1:2002, <i>Structural design actions</i>, Part 1: <i>Permanent, imposed and other actions</i> and AS/NZS 1170.2:2002, <i>Structural design actions</i>, Part 2: <i>Wind actions</i>. • Timber walls to comply with: <ul style="list-style-type: none"> • AS 1720.1—1997, <i>Timber structures, Part 1: Design methods</i>, • AS/NZS 1170.1:2002, <i>Structural design actions</i>, Part 1: <i>Permanent, imposed and other actions</i> and AS/NZS 1170.2:2002, <i>Structural design actions</i>, Part 2: <i>Wind actions</i>. • All retaining walls are to be constructed so that they do not prevent the natural flow of stormwater drainage/run-off. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Sail awnings | <ul style="list-style-type: none"> • Maximum area 20m² and located behind the building line. • Attached to an external wall of a dwelling. • Installed to manufacturer's specifications. |
| Satellite dishes | |
| 1 Residential | |
| (a) Ground mounted | <ul style="list-style-type: none"> • Maximum height 2.4m above natural ground level. • Maximum diameter 1m. • One installation per dwelling. • A minimum of 900mm from a property boundary. • Situated no closer to the street than the associated dwelling/building. • Structurally stable. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |

Baulkham Hills Local Environmental Plan 2005

Schedule 2 Exempt development

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|---|
| (b) Building mounted | <ul style="list-style-type: none"> • One installation per dwelling. • Located below the ridge of the dwelling. • Maximum diameter 1m. • Structurally stable. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| 2 Commercial | |
| (a) Ground mounted | <ul style="list-style-type: none"> • Maximum height and diameter of 2.4m. • Situated a minimum of 900mm from the boundary of the adjoining property, if residential. • One installation per property. • Structurally stable. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| (b) Roof mounted | <ul style="list-style-type: none"> • Maximum diameter of 2.0m. • To be located a minimum of 900mm from all property boundaries. • One installation per building. • Structurally stable. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Sheds for or in conjunction with agricultural activities in areas zoned rural only | <ul style="list-style-type: none"> • Land must be in Zone 1 (a), 1 (b), 1 (c) or 1 (d). • Maximum size 50m² cumulative and maximum height 5m. • Structurally adequate construction. • Constructed of non-reflective materials and prefabricated metal. • Roof water is not to discharge onto adjoining properties and is to be directed to a water tank or 3m clear of any structure. • To be erected within the boundaries of the allotment and not within 20m of a boundary adjoining a road or within 10m of rear and side boundaries. • Not to encroach into any registered easement. |

Baulkham Hills Local Environmental Plan 2005

Exempt development

Schedule 2

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|---|--|
| Skylight/roof windows | <ul style="list-style-type: none"> • To be located clear of septic disposal area or other services. • Not to be erected within 20m of a dwelling on an adjoining property. • Not a machinery or hay shed unrelated to the normal agricultural activities on the property. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. • Maximum area of skylight not to exceed 2m². • Located not less than 900mm from a property boundary and not less than 900mm from a wall separating attached dwellings. • The building work must not reduce the structural integrity of the building or involve structural alterations. • Any opening created by the installation must be adequately weatherproofed. • Installation to manufacturer's specifications. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| Solar water heaters and solar panels | <ul style="list-style-type: none"> • Installed to manufacturer's specifications. • Installed by a licensed tradesperson. • Associated building work must not reduce the structural integrity of the building or involve structural alterations. • Any openings created by an installation must be adequately weatherproofed. • Must not protrude above the ridge level. |
| Stockyards and shelters in conjunction with normal agricultural activities on the property excluding commercial or intensive uses only in areas zoned rural | <ul style="list-style-type: none"> • Maximum yard area of 0.5 hectare. • Maximum height of shelters 2.7m. • Structurally adequate construction. • Constructed of timber or metal. • Not to be erected within 20m of the street boundary or within 4m of a side or rear boundary. • Sited wholly within the boundaries of the property and not within 50m of a watercourse, a dwelling on an adjoining property or any registered easement. |

Baulkham Hills Local Environmental Plan 2005

Schedule 2 Exempt development

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|---|
| Water features and ponds | <ul style="list-style-type: none"> • Must be used in association with normal agricultural activities on the property. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. • Maximum water depth of 300mm. • Maximum area 10m². • Overflow not to cause a nuisance to adjoining properties. |
| Water heaters (excluding solar systems) | <ul style="list-style-type: none"> • Replacement or new installations. • The work must not reduce the structural integrity of the building or involve structural alterations. • Installed by a licensed person. |
| Water tanks at or above ground level | <ol style="list-style-type: none"> 1 Rural areas (up to 2 tanks per dwelling and another 2 associated with farm buildings not near a dwelling) <ul style="list-style-type: none"> • Maximum 17,000 litres capacity per above ground tank, 60,000 litres per inground tank. • Maximum height of 2.4m above natural ground level (including stand). • Tank must be located at least 450mm from any property boundary. • Situated no closer to a street than an associated dwelling. • All tanks/tank stand installations to be structurally sound and comply with the manufacturer's and/or designer's specifications. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. 2 Urban areas (One per dwelling or other premises) <ul style="list-style-type: none"> • Maximum installed height above ground level of 2.4m (including stand). • Tank must be located at least 450mm from any property boundary. • A sign must be affixed to the tank clearly stating that the water in the tank is rainwater. • Maximum storage capacity of 10,000 litres. • Located no closer to the street than the associated dwelling. |

Baulkham Hills Local Environmental Plan 2005

Exempt development

Schedule 2

| Development consisting of the erection and use or carrying out of the following: | Exemption requirements |
|--|--|
| <p>Windmills in areas zoned rural only</p> | <ul style="list-style-type: none"> • The tank must be designed to capture and store roof water from gutters or downpipes on a building. • All tanks/tank stand installations to be structurally sound and comply with the manufacturer's and/or designer's instructions. • Pumps not to cause a noise nuisance. • Tank to be maintained to prevent mosquito breeding or overflow. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. • To be sited wholly within the boundaries of the property. • Not to encroach into any registered easement. • Free-standing and not relying on other structures for support. • Clearance from power lines in accordance with any relevant electricity authority requirements. • Installed to manufacturer's specifications. • To be built in accordance with engineer's certification for the structure and footings. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. • Replacement in residential premises with materials that comply with: <ul style="list-style-type: none"> • AS 1288—1994, <i>Glass in buildings—Selection and installation</i>, and • AS/NZS 2208:1996, <i>Safety glazing materials in buildings</i>. • No reduction in the area provided for light and ventilation is permitted and structural support members cannot be removed. • For commercial/industrial premises the reflectivity index not to exceed 20%. • Compliance with any relevant requirements of the <i>Building Code of Australia</i>. |
| <p>Windows, glazed areas and external doors (excluding windows in buildings listed as heritage items or in a conservation area)</p> | |

Baulkham Hills Local Environmental Plan 2005

Schedule 3 Development prohibited in certain zones

Schedule 3 Development prohibited in certain zones

(Table to clause 13)

Development for the purpose of:

airline terminals
amusement parks
animal boarding, breeding and training establishments
bulky goods retailing
bus depots
bus stations
car repair stations
caravan parks
clubs
commercial premises
extractive industries
generating works
guest houses
helipads
heliports
hospitals
hotels
industries (other than home activities)
institutions
intensive lot feeding of livestock
junk yards
landscape supply establishments
light industries
liquid fuel depots
mines
motels
motor showrooms
motor vehicle servicing
offensive or hazardous industries
pig keeping

Baulkham Hills Local Environmental Plan 2005

Development prohibited in certain zones

Schedule 3

poultry farming
reception establishments
recreation facilities
research establishments
restaurants
retail plant nurseries
roadside stalls
road transport terminals
rural industries
rural workers' dwellings
sawmills
service stations
shop-top housing
shops
stock and sale yards
tourist facilities
transport terminals
veterinary establishments
warehouses
waste disposal
wholesale plant nurseries

Baulkham Hills Local Environmental Plan 2005

Schedule 4 Shops allowed in certain zones

Schedule 4 Shops allowed in certain zones

(Table to Clause 13)

Chemists' shops
Financial services
Hairdressing salons
Industrial real estate brokerages
Liquor stores
Medical practitioners' surgeries
Milk bars and sandwich shops
Newsagencies

Baulkham Hills Local Environmental Plan 2005

Classification and reclassification of public land as operational land

Schedule 5

**Schedule 5 Classification and reclassification of
public land as operational land**

(Clause 54)

Part 1 Interests not changed

Part 2 Interests changed

| Column 1 | Column 2 | Column 3 |
|-----------------|--------------------|----------------------------------|
| Locality | Description | Trusts etc not discharged |

Baulkham Hills Local Environmental Plan 2005

Schedule 6 Additional development on certain land

Schedule 6 Additional development on certain land

(Clause 56)

| Column 1 | Column 2 | Column 3 |
|---|---|--|
| Lot 14, DP 21212 | Development for the purpose of a real estate office, garage/storage area and staff amenities | The floor area must not exceed the following: <ul style="list-style-type: none"> (a) real estate office—148m², (b) garage/storage area—50m², (c) staff amenities—17m². |
| Lot 16, DP 21212 | Development for the purpose of a kitchen showroom and garage/storage area | The floor area must not exceed the following: <ul style="list-style-type: none"> (a) kitchen showroom—80m², (b) garage/storage area—28m². |
| Lot 17, DP 21212 | Development for the purpose of a real estate office, garage/storage area and staff amenities | The floor area must not exceed the following: <ul style="list-style-type: none"> (a) real estate office—125m², (b) garage/storage area—40m², (c) staff amenities—8m². |
| Lot 13, DP 135351, No 46 Windsor Road, Kellyville | Development for the purpose of an insurance and financial services office | The floor area of the insurance and financial services office must not exceed 85m ² . |
| Lot 13, DP 627190 Schwebel Lane and Lot A, DP 381392 and Lots 1 and 2, DP 605276, Old Northern Road, Glenorie | Development for the purpose of a concrete batching plant | The total annual production of concrete and concrete products must not exceed 20,000 tonnes. |
| Lot 15, DP 21212, No 42 Windsor Road, Kellyville | Development for the purpose of a real estate office and garage area | The floor area must not exceed the following: <ul style="list-style-type: none"> (a) real estate office—116m², (b) garage area—23.25m². |
| Lot 1, DP 135728, Windsor Road, Box Hill, and part of Lot 1, DP 784714, Windsor Road, Box Hill, as shown edged heavy black on the map marked "Baulkham Hills Local Environmental Plan 1991 (Amendment No 76)" | Development for the purpose of a service station building containing areas for sales and amenities, an office and a convenience store | The total area occupied by the convenience store and amenities must not exceed 200m ² . The service station may have a maximum of six fuel bowsers. |

Baulkham Hills Local Environmental Plan 2005

Additional development on certain land

Schedule 6

| Column 1 | Column 2 | Column 3 |
|--|---|-----------------|
| Part of Lot 4, DP 616348, Old Northern Road, Glenorie, as shown edged heavy black on the map marked "Baulkham Hills Local Environmental Plan 1991 (Amendment No 100)". | Renovation and redevelopment of existing service station only for the purpose of a service station. | |

Natural Resources

WATER ACT 1912

Order Under Section 22BA

Invalidation of Applications for Entitlements

Paterson River (between the 22C embargo and tidal limit)

THE Water Administration Ministerial Corporation, being satisfied the water source named and shown in hatching in the Schedule is unlikely to have more water available than is sufficient to meet the requirements of those already entitled by law to take water from the water source (and such other possible requirements for water from the water source as have been determined by the Ministerial Corporation) now declares that on and from the date of this Order in the *Government Gazette*, no application for an entitlement may be made, except as specified, until this order is revoked by a subsequent notice published in the *Government Gazette*.

This order relates to all applications for entitlements other than applications for entitlements for:

1. Water supply (including supply for irrigation) for experimental, research and/or teaching purposes of a short term or temporary nature.
2. Private domestic purposes, where that consumption in relation to land, means consumption for normal household purposes in domestic premises situated on the land.
3. Water supply for stock water purposes, where that consumption in relation to land, means the watering of stock animals being raised on the land, but does not include the use of water in connection with the raising of stock animals on an intensive commercial basis that are the housed or kept in feedlots or buildings for all (or a substantial part) of the period during which the stock animals are being raised.
4. Town or Village water supply purposes.
5. Permits for the extraction of water for industrial purposes, road construction/dust suppression purposes, bank revegetation, or environmental enhancement.
6. Permits for extraction of water by water carters provided any water abstracted shall be used for drought relief purposes (stock or domestic water supply).
7. Permits to extract water for hydrostatic testing of gas, oil, water or other pipeline.
8. Hydro-power generation or other commercial undertaking provided any water abstracted is returned to the water source undiminished in quantity.
9. Works referred to in any order made under section 5 (5) of the Water Act 1912.

Dated: 25 July 2005.

Signed for the Water Administration Ministerial Corporation:

CRAIG ABBS,
Regional Director,
Hunter Region,
Department of Infrastructure, Planning
and Natural Resources

SCHEDULE

The Paterson River extending from the regulated river 22C boundary (at the common boundary of Lots 15 and 16, DP 249257, Parish of Barford, County of Durham), to the tidal limit (980 metres downstream from the Gostwyck Bridge over the Paterson River on the road from Maitland to Dungog, corresponding to a point 410 metres downstream from a point adjacent to where the north-eastern corner of Lot 5, DP 13089, Parish of Houghton, County of Durham, fronts the western bank of the Paterson River; and 660 metres downstream from a point where the north-western corner of Lot 115, DP 848634, Parish of Barford, County of Durham fronts the eastern bank of the Paterson River).

WATER ACT 1912

APPLICATIONS under Part 2, within proclaimed (declared) local areas under section 5 (4) of the Water Act 1912.

An application for a licence under section 10 for works within a proclaimed (declared) local area as generally described hereunder has been received from:

Barwon – Darling River Valley

Noel George LENNON and Kylee Ann LENNON for a pump on the Bogan River, Lot 7002, DP 1020503 (TSR995), Parish of Bergo, County of Gregory, for irrigation of 4.5 hectares (lucerne) (replacement licence due to change to pump site) (Reference: 80SL96223).

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.

AN application for a licence under Part 5 of the Water Act 1912, as amended has been received from:

Max Georges LEFEBVRE and Louise Gray LEFEBVRE for a proposed artesian bore, Lot 11, DP 604040, Parish of Yarragoora, County of Leichhardt, for water supply for stock and domestic purposes (replacing abandoned bore number 4059) (in lieu of advert dated 27 June 2005) (Reference: 80BL242885).

GA2:306737.

Written objections to the applications specifying grounds of how your interests may be affected may be made by any statutory authority or local occupier within the proclaimed local (declared) area and must be lodged with the Departments Office at Dubbo, by 23 September 2005, as prescribed by the Act.

Any inquiries regarding the above should be directed to the undersigned (telephone: 6884 2560).

FRED HUNDY,
Water Access Manager,
Macquarie

Department of Infrastructure, Planning and
Natural Resources,
PO Box 717, Dubbo NSW 2830.

WATER ACT 1912

AN application under Part 2 within a proclaimed (declared) local area under section 5 (4) of the Water Act 1912.

An application for a licence under section 10 for works within a proclaimed (declared) local area as generally described hereunder have been received from:

Murrumbidgee Valley

Anthony Keith GIFFORD for an existing dam and diversion pipe on an unnamed watercourse, Lot 1, DP 130352, Parish of Selwyn, County of Wynyard, for conservation of water and water supply for domestic, stock, farming and irrigation purposes and supply of domestic water to the occupiers of 2/523863, 2/225740 and 1/225740, all Parish of Selwyn, County of Wynyard (replacement licence – irrigation allocation via permanent transfer) (Reference: 40SL71062).

Any enquiries regarding the above should be directed to the undersigned (telephone: [02] 6953 0700).

Formal objections to the application specifying the grounds thereof, may be made by any statutory authority or a local occupier within the proclaimed area and must be lodged with the Department's Regional Director at Leeton within the 28 days as fixed by the Act.

S. F. WEBB,
Resource Access Manager,
Murrumbidgee Region

Department Infrastructure, Planning and
Natural Resources,
PO Box 156, Leeton NSW 2705

WATER ACT 1912

APPLICATIONS for a licence under section 10 of Part 2 of the Water Act 1912, as amended, has been received as follows:

RAMEUS DECEMBER NOMINEES PTY LTD for a pump on the Pambula River on Lot 15, DP 726776, Parish of Gnupa, County of Auckland, for the irrigation of 26.0 hectares (improved pasture) (replacement licence – replaces 10SA001173) (no increase in annual water entitlement – no increase in authorised area) (not subject to the 2003 Pambula River and tributaries embargo) (Reference: 10SL056670) (GA2:493322).

Catherine Louise FRANKS for a pump on the Eucumbene River being Part Lot 2, DP 229388, Parish of Townsend, County of Wallace, for water supply for industrial (tourist accommodation) and domestic purposes (new licence) (Reference: 10SL56666) (GA2:502416).

Any inquiries regarding the above should be directed to the undersigned (telephone: 4428 6919).

Written objections specifying grounds thereof must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

WAYNE RYAN,
Natural Resource Project Officer,
Sydney/South Coast Region

Department of Infrastructure, Planning and
Natural Resources,
PO Box 309, Nowra NSW 2541.

WATER ACT 1912

APPLICATIONS for a licence under section 10 of Part 2 of the Water Act 1912, as amended, has been received as follows:

AUS10 RHYOLITE PTY LTD for a pump on the Coxs River on Part Lot 31, DP 1009967, Parish of Lowther, County of Westmoreland, for water supply for industrial (dust suppression) purposes (part replacement licence – part replaces 10SL042897 and part replaces 10SL42883) (no increase in annual water entitlement – no increase in authorised area) (not subject to the 1995 Hawkesbury/Nepean Embargo) (annual entitlement of 20 megalitres for industrial purposes) (Reference: 10SL056669) (GA2:493454).

Geoffrey Carson MITCHELL and Pamela Ann MITCHELL for an existing bywash dam and pump on Gundry Creek on Lot 10, DP 216339, Parish of Towrang, County of Argyle, for the conservation of water and water supply for stock purposes (please note that the existing structure has a capacity of 37.0 megalitres but the application includes installation of diversion works that will ensure that the maximum capacity of the bywash dam does not exceed 6.0 megalitres and that the first 0.45 megalitres of all flow events are diverted downstream before dam filling to 6.0 megalitres can occur) (new licence) (exempt from the 1995 Hawkesbury/Nepean River Catchment Embargo) (an annual entitlement of 4.5 megalitres (stock) is proposed) (Reference: 10SL056671) (GA2:493323).

Any inquiries regarding the above should be directed to the undersigned (telephone: (02) 9895 7194).

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,
Natural Resource Project Officer,
Sydney/South Coast Region

Department of Infrastructure, Planning and
Natural Resources,
PO Box 3720, Parramatta NSW 2124.

WATER ACT 1912

APPLICATIONS under Part 2, being within a proclaimed (declared) local area under section 10 of the Water Act 1912, as amended.

Applications for licences within a proclaimed local area as generally described hereunder have been received as follows:

Macintyre-dumaresq River Valley

Steven Arthur FRANCIS, Judith Joan FRANCIS, Karl Ward THOMAS and Paula Anne THOMAS for a pump on the Mole River on Lot 25, DP 1035265, Parish of Donaldson, County of Clive. (Application seeks to permanently transfer 10 megalitres of existing Mole River entitlement from "Bondonga" subdivision for irrigation, stock and domestic purposes). LO Papers 90SL100860.

Colin John KILBURN and Kay Elizabeth KILBURN for a pump on the Mole River on Lot 48, DP 751515, Parish of Gibraltar, County of Clive. (Application seeks to permanently transfer 10 megalitres of existing Mole River entitlement from "Bondonga" subdivision for irrigation, stock and domestic purposes).

L.O. Papers 90SL100859.

Daniel Patrick MULHEARN for a pump on the Mole River on Lot 59, DP 751515, Parish of Gibraltar, County of Clive. (Application seeks to permanently transfer 20 megalitres of existing Mole River entitlement from "Bondonga" subdivision for irrigation, stock and domestic purposes). L.O. Papers 90SL100858.

Bruce Leonard LANSLEY for a pump on the Mole River on Lot 27, DP 751515, Parish of Gibraltar, County of Clive. (Application seeks to permanently transfer 10 megalitres of existing Mole River entitlement from "Bondonga" subdivision for irrigation purposes). L.O. Papers 90SL100855.

Paul Ejnar CRIBB for a pump on the Mole River on Lot 5, DP 751508, Parish of Donaldson, County of Clive. (Application seeks to permanently transfer 6 megalitres of existing Mole River entitlement from "Bondonga" subdivision for irrigation, stock and domestic purposes). L.O. Papers 90SL100856.

Written objections to the applications specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth within 28 days as specified in the Act.

GEOFF CAMERON,
Manager,
Resource Access

Department of Infrastructure, Planning and
Natural Resources,
PO Box 550, Tamworth NSW 2340.

WATER ACT 1912

Moree Local Land Board

Notice of Hearing Under Part 2 of the Water Act 1912

THE Local Land Board for the Land District of Moree will sit at the Moree Court House (second courtroom) Frome Street, Moree, on Tuesday, 6 September 2005 and Wednesday, 7 September 2005, commencing at 10:00 a.m. each day.

The hearing will publicly inquire as to the desirability of granting an application under Part 2 of the Water Act 1912, for the permanent transfer of 1,944 megalitres of entitlement from Gil Gil Creek to Tycannah Creek to two existing pumps on Lots 21 and 22, DP 751792, Parish of Wallanol and a diversion pipe and gate on Lot 23, DP 751763, Parish of Combadelo, all in the County of Courallie (works and land authorised for benefit are currently authorised by existing Licence No. 90SL100608 and the development on the floodplain is authorised by 90CW810883) (LO Papers: 90SL100717) (GA2:472227).

GEOFF CAMERON,
Manager,
Resource Access

Department of Infrastructure, Planning and
Natural Resources,
PO Box 550, Tamworth NSW 2340.

WATER ACT 1912

Notice under Section 22B

NOTICE is hereby given that as from 26 August 2005, The Water Administration Ministerial Corporation has cancelled the notification of restrictions on extraction of water from Attunga Creek (including Back Creek), Goonoo Goonoo Creek, Halls Creek, Duncans Creek, Dungowan Creek, Moore Creek, Tangaratta Creek, Timbumburi Creek and the tributaries and effluents of the aforementioned streams.

Restrictions were applied to those streams on 8 April 2005.

Dated this twenty sixth day of August 2005.

RANDALL HART,
Regional Director, Barwon Region,
Department of Infrastructure, Planning and
Natural Resources
(by delegation)

WATER ACT 1912

Order Under Section 117E

Groundwater Allocations for 2005/6 Water Year
Great Artesian Basin Zone 1A

THE Water Administration Ministerial Corporation notifies groundwater entitlement holders that Great Artesian Basin Zone 1A is unlikely to have sufficient water available to meet the requirements of persons authorised by law to take water from this water source or to meet other requirements for water previously determined by the Ministerial Corporation.

Accordingly, except for town water supply allocations, all groundwater allocations for the whole 2005/6 Water Year (1 July 2005 to 30 June 2006) are reduced to 80% of licensed entitlement. Town water supply allocations will not be subject to a reduction.

Signed for the Water Administration Ministerial Corporation

Dated this 26th day of August 2005.

RANDALL HART,
Regional Director, Barwon Region,
Department of Infrastructure, Planning and
Natural Resources
(by delegation)

Department of Lands

ARMIDALE OFFICE

108 Faulkner Street, Armidale NSW 2350

Phone: (02) 6772 5488 Fax (02) 6771 5348

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> | <i>COLUMN 3</i> |
|---|-----------------------------------|---|
| The person for the time being holding the office of President, YMCA (ex-officio member) | Armidale Showground Reserve Trust | Dedication No. 510024 Public Purpose: Showground Notified: 30 November 1877 Reserve No. 110029 Public Purpose: Showground Notified: 22 December 1989 File Reference: AE81R5/6 For a term commencing the date of this notice and expiring 31 December 2005. |

FAR WEST REGIONAL OFFICE
45 Wingewarra Street (PO Box 1840), Dubbo NSW 2830
Phone: (02) 6883 3000 Fax: (02) 6883 3099

APPOINTMENT OF CORPORATION TO MANAGE RESERVE TRUST

PURSUANT to section 95 of the Crown Lands Act 1989, the corporation specified in Column 1 of the Schedule hereunder is appointed to manage the affairs of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> | <i>COLUMN 3</i> |
|--------------------------|--|--|
| Brewarrina Shire Council | Goodooga Sports and Recreation Reserve Trust | Reserve No. 78644 Public Purpose: Public Recreation Notified: 15 June 1956 File Ref.: WL87 R 12/1 |

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> | <i>COLUMN 3</i> |
|--------------------------|----------------------------------|---|
| Brewarrina Shire Council | Dooral Street Park Reserve Trust | Reserve No. 8505 Public Purpose: Public Recreation Notified: 9 February 1889 File Ref.: WL88 R 143/1 |

ASSIGNMENT OF NAME TO A RESERVE TRUST

PURSUANT to clause 4 (3) of Schedule 8 to the Crown Lands Act 1989, the name specified in Column 1 of the Schedule hereunder is assigned to the reserve trust constituted as trustee of the reserve specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> |
|----------------------------------|--|
| Brewarrina Boating Reserve Trust | Reserve No. 83000 Public Purpose: Public Recreation Notified: 6 January 1961 File Ref.: WL88 R 81/1 |

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> |
|--|---|
| The Brewarrina Wading Pool Reserve Trust | Reserve No. 85319 Public Purpose: Public Recreation Notified: 14 May 1965 File Ref.: WL88 R 37/1 |

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> |
|-----------------------------------|--|
| Naveena Street Park Reserve Trust | Reserve No. 86974 Public Purpose: Public Recreation Notified: 29 November 1968 File Ref.: WL87 R 49/1 |

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> | <i>COLUMN 3</i> |
|---|--|---|
| George Winardus MULDER (re-appointment) | Lightning Ridge Historical Society Trust | Reserve No. 95663 Public Purpose: Preservation of Historical Sites and Buildings Notified: 6 November 1981 Reserve No. 96499 Public Purpose: Preservation of Historical Sites and Buildings Notified: 10 December 1982 File Ref.: WL90 R 19/1 |

For a term commencing this day and expiring 16 June 2010

ESTABLISHMENT OF RESERVE TRUST

PURSUANT to section 92 (1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder is established under the name stated in that Column and is appointed as trustee of the reserve specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> |
|--|--|
| Goodooga Sports and Recreation Reserve Trust | Reserve No. 78644 Public Purpose: Public Recreation Notified: 15 June 1956 File Ref.: WL87 R 12/1 |

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> |
|----------------------------------|---|
| Dooral Street Park Reserve Trust | Reserve No. 8505 Public Purpose: Public Recreation Notified: 9 February 1889 File Ref.: WL88 R 143/1 |

GRANTING OF A WESTERN LANDS LEASE

IT is hereby notified that under the provisions of Section 28A of the Western Lands Act 1901, the Western Lands Leases specified in the following Schedule have been granted.

The leases are subject to the provisions of the Western Lands Act 1901 and the Regulations thereunder.

The land is to be used only for the purpose of Residence.

Initial rent will be \$100.00 per annum and re-assessed thereafter annually on 1 April of each year.

The Conditions and Reservations annexed to the leases are those published in the Government Gazette of 18 February 2005, Folios 434 and 435.

All amounts due and payable to the Crown must be paid to the Department of Lands by the due date.

IAN MacDONALD, M.L.C.,
Minister for Natural Resources

*Administrative District – Walgett North;
LGA – Walgett;
Parish – Wallangulla; County – Finch*

| WLL No. | Name of Lessee | Lot | Deposited Plan | Folio Identifier | Area (m ²) | Term of Lease | |
|-----------|---|-----|----------------|------------------|------------------------|---------------|---------------|
| | | | | | | From | To |
| WLL 14466 | Elizabeth JOZIC | 121 | 1057617 | 121/1057617 | 2184m ² | 2 August 2005 | 1 August 2025 |
| WLL 14399 | Linette HUDDART | 27 | 1057617 | 27/1057617 | 2512m ² | 2 August 2005 | 1 August 2025 |
| WLL 14460 | James Wishart WALKER and Barbara Helen WALKER | 81 | 1066289 | 81/1066289 | 2514m ² | 2 August 2005 | 1 August 2025 |
| WLL 14506 | Katie Joan MOLDOVAN | 97 | 1073508 | 97/1073508 | 2448m ² | 2 August 2005 | 1 August 2025 |
| WLL 14561 | Noreen June KERR | 100 | 1073508 | 100/1073508 | 2441m ² | 2 August 2005 | 1 August 2025 |
| WLL 14555 | Paul GABAUER | 106 | 1073508 | 106/1073508 | 2751m ² | 2 August 2005 | 1 August 2025 |
| WLL 14440 | Neil James ALLEN | 2 | 1057617 | 2/1057617 | 2401m ² | 9 August 2005 | 8 August 2025 |
| WLL 14522 | Shirley DOWLEANS | 14 | 1073508 | 14/1073508 | 2510m ² | 9 August 2005 | 8 August 2025 |

GRAFTON OFFICE
76 Victoria Street (Locked Bag 10), Grafton NSW 2460
Phone: (02) 6640 2000 Fax: (02) 6640 2035

**TRUSTEES OF SCHOOLS OF ARTS ENABLING
ACT 1902**

Appointment of Trustees – Wardell School of Arts

IT is hereby notified for general information that the office of Francis Denis Hartigan as a trustee of the land held for the purpose of a School of Arts at Wardell has been declared vacant, and that the undermentioned person has been elected to the position as a Trustee at a special general meeting of the members, held in accordance with the provisions of the 14th section of the Trustees of Schools of Arts Enabling Act 1902.

I, therefore, as Minister for Lands, in pursuance of the power given me in the same section, hereby approve of the undermentioned person to the position of trustee of the aforesaid institution, namely, Ronald James ROSOLEN.

TONY KELLY, M.L.C.,
Minister for Lands

NOTIFICATION OF CLOSING OF ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished. On road closing, title to the land comprising the former public road vests in the body specified in the Schedule hereunder.

TONY KELLY, M.L.C.,
Minister for Lands

Description

*Land District – Bellingen;
L.G.A. – Bellingen Shire Council*

Roads Closed: Lot 1, DP 1084460 at Raleigh, Parish South Bellingen, County Rous.

File No.: GF98 H 154.

SCHEDULE

On closing, the land within Lot 1, DP 1084460 becomes vested in Bellingen Shire Council as operational land for the purposes of the Local Government Act 1993.

Councils Reference: R.14-21.

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder, are appointed for the terms of office specified thereunder, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> | <i>COLUMN 3</i> |
|-------------------------------------|--|---|
| Kenneth James FAHY (new member). | Woodenbong War Memorial Reserve Trust. | Reserve No.: 74787. Public Purpose: War Memorial. Notified: 21 March 1952. File No.: GF81 R 279. |

Term of Office

For a term commencing the date of this notice and expiring 13 February 2008.

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 roads specified in Schedule 1 are hereby transferred to the Roads Authority specified in Schedule 2 hereunder, as from the date of publication of this notice and as from the date, the roads specified in schedule 1, ceases to be Crown road.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE 1

*Parish – Cudgen; County – Rous;
Land District – Murwillumbah; Shire – Tweed*

Crown public road north of Lot 2, DP 1069562 and Lot 1, DP 34739. Reference: GF05 H 275

*Parish – Cudgen; County – Rous;
Land District – Murwillumbah; Shire – Tweed*

Crown public road north and west of Lot 1, DP 220685, through Lot 3, DP 755701 and west of Lot 2, DP 657256. Reference: GF05 H 103

*Parish – Terranora; County – Rous;
Land District – Murwillumbah; Shire – Tweed*

Crown public road separating Lot 2, DP 833498, Drain (being Vacant Crown Land 10.06 wide) and Lot 4, DP 228424 from Tweed River (Shallow Bay). Reference: GF05 H 385

*Parish – Toolond; County – Rous;
Land District – Murwillumbah; Shire – Tweed*

Crown public roads within Lots 35 and 36, DP 755743, through Lot 2, DP 605854, northwest and northeast of Lot 38, DP 755743 and southeast of Lot 35, DP 755743. Reference: GF04 H 535

*Parish – Mooball; County – Rous;
Land District – Murwillumbah; Shire – Tweed*

Crown public roads northwest, southwest, within, northeast, north and east of Lot 1, DP 208249, east of Lots 44 and 81, DP 755721. Reference: GF05 H 687

SCHEDULE 2

Roads Authority: Tweed Shire Council

NOTIFICATION OF CLOSING OF ROAD

In pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished. On road closing, title to the land comprising the former public road vests in the body specified in the Schedule hereunder.

TONY KELLY, M.L.C.,
Minister for Lands

Description

*Land District – Bellingen;
L.G.A. – Coffs Harbour City Council*

Roads Closed: Lots 1, 2, 3 and 4, DP 1081766 at Coramba,
Parish Moonee, County Fitzroy.

File Nos: GF22H222 and GF03H140.

SCHEDULE

On closing, the land within Lots 1, 2 and 3, DP 1081766 remains vested in Coffs Harbour Shire Council as operational land for the purposes of the Local Government Act 1993.

Councils Reference: 379888 (P/N86465).

Note: On closing, the land within Lot 4, DP 1081766 remains vested in the State of New South Wales as Crown Land.

MAITLAND OFFICE

Cnr Newcastle Road & Banks Street (PO Box 6), East Maitland NSW 2323

Phone: (02) 4934 2280 Fax: (02) 4934 2252

**APPOINTMENT OF CORPORATION TO MANAGE
RESERVE TRUST**

PURSUANT to section 95 of the Crown Lands Act 1989, the corporation specified in Column 1 of the Schedule hereunder, is appointed to manage the affairs of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> | <i>COLUMN 3</i> |
|------------------------------|---|--|
| Delando Corporation Limited. | Delando Crescent Welfare Corporation Trust. | Reserve No.: 86343. Public Purpose: School for sub-normal children. Notified: 28 July 1967. File No.: MD80 R 116/2. |

For a term commencing this day.

NOWRA OFFICE
5 O'Keefe Avenue (PO Box 309), Nowra NSW 2541
Phone: (02) 4428 6900 Fax: (02) 4428 6988

**DRAFT ASSESSMENT OF LAND UNDER PART 3 OF
THE CROWN LANDS ACT 1989 AND THE CROWN
LANDS REGULATIONS 2000**

THE Minister for Lands has prepared a draft land assessment for the Crown Land described hereunder.

Inspection of this draft assessment can be made at <http://lands/LandManagement/CrownLandAssessments>, or at the Department of Lands offices at 5 O'Keefe Avenue, Nowra and Suite 2, Bega Centre, 106 Auckland Street; at the Bega Valley Shire Council Administration Office, Zingle Place, Bega; the Merimbula Branch Office, 103 Main Street, Merimbula; the Eden Branch Office, 116 Imlay Street, Eden; and the counter of the Pambula Post Office, 27 Quandola Street, Pambula during normal business hours.

Representations are invited on the draft assessment. These may be made in writing for a period commencing from 26 August 2005 and ending 7 October 2005 and should be sent to the Land Management Officer, Department of Lands, PO Box 309, Nowra NSW 2541.

Reason for Assessment: To assist in the consideration of appropriate future land use and management options.

TONY KELLY, M.L.C.,
Minister for Lands

Description

*Land District – Bega;
Local Government Area – Bega Valley;
Parish – Yowaka; County – Auckland.*

Crown Land at Pambula River comprising Lot 124, DP 44333; Lot 7005, DP 1069319 and unsurveyed Crown Land.

Crown Lands generally located on the northwest shore of Pambula River at Yowaka.

File No.: NA05 H 200.

ORANGE OFFICE
92 Kite Street (PO Box 2146), Orange NSW 2800
Phone: (02) 6393 4300 Fax: (02) 6362 3896

**NOTIFICATION OF RESUMPTION OF LAND FOR
ROAD AND CLOSING OF ROAD**

IN pursuance of the provisions of the Roads Act 1993 the land hereunder described in Schedule 1 is resumed for public road purposes and is vested in the State of New South Wales as Crown Public road. The road hereunder described in Schedule 2 is closed and the land comprised therein ceases to be a 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 for Lands

Description

*Land District and LGA – Oberon;
Parish – Norway; County – Westmoreland*

SCHEDULE 1

Lot 1 DP1085858 of 7756m².

Road opened within Lot 2, DP 1011321.

Remainder of Lot 2, DP 1011321 now Lot 3, DP 1085858 of 7.801 ha (by ded'n.)

SCHEDULE 2

Lot 2, DP1085858 of 4412m².

The land described in Schedule 2 will be granted in compensation for the land described in Schedule 1 for the purposes of this Act.

File Reference: OE01 H 191

**APPOINTMENT OF CORPORATION TO MANAGE
RESERVE TRUST**

PURSUANT to section 95 of the Crown Lands Act 1989, the corporation specified in Column 1 of the Schedule hereunder is appointed to manage the affairs of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,
Minister for Lands

SCHEDULE

| <i>COLUMN 1</i> | <i>COLUMN 2</i> | <i>COLUMN 3</i> |
|---------------------------------|-------------------------|---|
| Parkes Jockey Club Incorporated | Parkes Racecourse Trust | Reserve No. 15223 Public Purpose: Racecourse Notified: 13 February 1892 File Ref: OE80 R 198/2 |

SYDNEY METROPOLITAN OFFICE
Level 12, Macquarie Tower, 10 Valentine Avenue, Parramatta 2150
(PO Box 3935, Parramatta NSW 2124)
Phone: (02) 8836 5300 Fax: (02) 8836 5365

ROOKWOOD NECROPOLIS ACT 1901

IN pursuance of the provisions of sections 6A (1) and 6A (2), Rookwood Necropolis Act 1901, the lands comprising the Roman Catholic portions at the Rookwood Necropolis are set aside for use as a Roman Catholic crematorium. File No.: MN98 R 41

TONY KELLY, M.L.C.,
Minister for Lands

**PLAN OF MANAGEMENT FOR TUNNEL GULLY
RESERVE AT LAPSTONE, COMPRISED MAINLY
OF A CROWN RESERVE, EXPLORERS ROAD
RESERVE UNDER PART 5 DIVISION 6 OF
THE CROWN LANDS AT 1989 AND
CROWN LANDS REGULATION 2000**

A draft plan of management has been prepared for Tunnel Gully Reserve, of which a substantial part comprises the Crown Reserve being, Explorers Road Reserve, described hereunder and under the trust management of Blue Mountains City Council.

Inspection of the draft plan can be made at Blue Mountains City Council's Springwood and Katoomba Business and Information Centres Administration Centre, Blackheath, Katoomba, Lawson and Blaxland Libraries and can be viewed on Council's Website <http://www.bmcc.nsw.gov.au> under "matters on exhibition".

Representations are invited from the public on the draft plan. The plan will be on exhibition from Friday 26 August for a period of 50 days. Submissions will be received up to 14 October 2005 and should be sent to The General Manager, Blue Mountains City Council, Locked Bag No. 5 Katoomba NSW 2780.

TONY KELLY, M.L.C.,
Minister for Lands

Description of Reserve

*Land District – Metropolitan; L.G.A – Blue Mountains;
Parish – Strathdon; County – Cook*

Crown reserve: 26979 gazetted 11 December 1897 being Lot 7007, DP 1055673, Lot 7008, DP 1055673, Lot 7009, DP 1055673 and Lot 7057, DP 751662 being about 23.9 ha.

Location: Explorers Road, Lapstone.
File No.: MN04 R 27

**PLAN OF MANAGEMENT FOR A CROWN
RESERVE PRINCE ALFRED PARK AT
SURRY HILLS, UNDER PART 5 DIVISION 6 OF
THE CROWN LANDS ACT 1989 AND
CROWN LANDS REGULATION 2000**

A draft plan of management has been prepared for the Crown Reserve being Prince Alfred Park, described hereunder, which is managed by the City of Sydney Council.

Inspection of the draft plan can be made at Level 2, Town Hall House, 456 Kent Street, Sydney, Surry Hills Library, corner Crown and Collins Street, Surry Hills and Redfern Neighbourhood Centre, Tower 2, 1 Lawson Square Redfern and can be viewed on the Council's Website <http://www.cityofsydney.nsw.gov.au>.

Representations are invited from the public on the draft plan. The Plan will be on exhibition from Friday 26 August 2005 for a period of 36 days. Submissions will be received up to 30 September 2005 and should be sent to The Chief Executive Officer, The City of Sydney Council, Town Hall House, 456 Kent Street, Sydney NSW 2001.

TONY KELLY, M.L.C.,
Minister for Lands

Description of Reserve

*Land District – Metropolitan; L.G.A. – City of Sydney;
Parish – St. Lawrence; County – Cumberland*

Crown reserve: Land Dedicated D500038 gazetted 22 December 1865 being Lot 1 DP 874757, Lot 21 DP 594873, Lot 24 DP 637261. being about 7.274 ha.

Location: Bounded by Cleveland Street and Chalmers Street, Surry Hills. File No.: MN89 R 137

NSW Fisheries

FISHERIES MANAGEMENT ACT 1994

Section 8 Notification – Fishing Closure

Tilligerry Creek in Port Stephens

I, Ian Macdonald, prohibit the recreational harvest of all shellfish as specified in Column 1 of the Schedule of this notification, from waters shown in Column 2 of the Schedule.

This prohibition is effective for a period of one year from the date of publication of this notice unless sooner varied or revoked by notification of Deputy Director-General, Agriculture and Fisheries, Department of Primary Industries.

SCHEDULE 1

Tilligerry Creek in Port Stephens

| <i>Column 1 Methods</i> | <i>Column 2 Waters</i> |
|---|---|
| All shellfish by any method | From a line commencing at the foreshore boundary of oyster lease 78 085 to the western foreshore boundary of oyster lease 92/020 upstream of this line to the extremity of Tilligerry Creek |
| Condition: This schedule applies to all species of shellfish, including but not limited to oysters, cockles, crabs, prawns, worms, limpets, sea urchins and lobsters. | |

Following consultation with the NSW Food Authority this closure was implemented to protect human health.

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

Mineral Resources

NOTICE is given that the following applications have been received:

EXPLORATION LICENCE APPLICATION

(05-246)

No. 2566, ISOKIND PTY LIMITED (ACN 081 732 498), area of 36 units, for Group 1, dated 19 August, 2005. (Cobar Mining Division).

MINING LEASE APPLICATION

(05-4014)

No. 266, WHITEHAVEN COAL MINING LIMITED (ACN 086 426 253) and IDEMITSU BOGGABRI COAL PTY. LIMITED (ACN 001 787 711), area of about 661 hectares, to mine for coal, dated 16 August, 2005. (Armidale Mining Division).

IAN MACDONALD MLC,
Minister for Natural Resources,
Minister for Primary Industries
and Minister for Mineral Resources.

NOTICE is given that the following applications for renewal have been received:

(T98-1218)

Exploration Licence No. 5771, PLATSEARCH NL (ACN 003 254 395) and EAGLEHAWK GEOLOGICAL CONSULTING PTY LTD (ACN 061 324 454), area of 100 units. Application for renewal received 11 August, 2005.

(T01-0120)

Exploration Licence No. 5891, Denis Michael WALSH, area of 1 unit. Application for renewal received 16 August, 2005.

(T03-0029)

Exploration Licence No. 6126, TRITTON RESOURCES LIMITED (ACN 100 095 494), area of 317 units. Application for renewal received 15 August, 2005.

IAN MACDONALD MLC,
Minister for Natural Resources,
Minister for Primary Industries
and Minister for Mineral Resources.

NOTICE is given that the following applications have been granted:

EXPLORATION LICENCE APPLICATIONS

(05-197)

No. 2516, now Exploration Licence No. 6458, FAST REACTOR PTY LTD (ACN 113 446 352), County of Gough, Map Sheet (9138), area of 16 units, for Group 1, dated 2 August, 2005, for a term until 1 August, 2007.

(05-201)

No. 2519, now Exploration Licence No. 6455, COLUMBINE RESOURCES PTY LTD (ACN 110 711 656), County of Bathurst, Map Sheet (8731), area of 17 units, for Group 1, dated 10 August, 2005, for a term until 9 August, 2007.

(05-212)

No. 2530, now Exploration Licence No. 6456, TOM'S WATERHOLE PTY LIMITED (ACN 111 557 807), County of Ashburnham, Map Sheet (8631), area of 17 units, for Group 1, dated 11 August, 2005, for a term until 10 August, 2007.

IAN MACDONALD MLC,
Minister for Natural Resources,
Minister for Primary Industries
and Minister for Mineral Resources.

RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(M83-3649)

Authorisation No. 338, ENDEAVOUR COAL PTY LTD (ACN 099 830 476), County of Camden, Map Sheet (9029), area of 3570 hectares, for a further term until 8 October, 2009. Renewal effective on and from 16 August, 2005.

(C91-0614)

Authorisation No. 450, SAXONVALE COAL PTY LIMITED (ACN 003 526 467), County of Northumberland, Map Sheet (9132), area of 648 hectares, for a further term until 30 December, 2008. Renewal effective on and from 11 August, 2005.

(T94-0331)

Exploration Licence No. 4811, GATEWAY MINING NL (ACN 008 402 391), Counties of Clarendon and Harden, Map Sheet (8528), area of 16 units, for a further term until 19 March, 2007. Renewal effective on and from 1 July, 2005.

(T00-0119)

Exploration Licence No. 5812, UNIVERSAL RESOURCES LIMITED (ACN 090 468 018), County of Argyle, Map Sheet (8728, 8828), area of 16 units, for a further term until 13 February, 2007. Renewal effective on and from 24 June, 2005.

(T01-0094)

Exploration Licence No. 5855, ALPHADALE PTY LIMITED (ACN 050 409 008), County of Buckland, Map Sheet (9035), area of 8 units, for a further term until 31 August, 2006. Renewal effective on and from 15 July, 2005.

(T01-0199)

Exploration Licence No. 5928, WALLARAH MINERALS PTY LTD (ACN 002 503 399), County of King, Map Sheet (8628), area of 5 units, for a further term until 21 March, 2006. Renewal effective on and from 12 July, 2005.

NOTICE is given that the following application has been refused:

EXPLORATION LICENCE APPLICATION

(05-168)

No. 2487, TAMAS KAPITANY, County of Mootwingee, Map Sheet (7336). Refusal took effect on 16 August, 2005.

IAN MACDONALD MLC,
Minister for Natural Resources,
Minister for Primary Industries
and Minister for Mineral Resources.

(T02-0057)

Exploration Licence No. 5979, TEMPLAR RESOURCES LIMITED (ACN 085 644 944), Counties of Ashburnham and Wellington, Map Sheet (8631), area of 16 units, for a further term until 27 August, 2006. Renewal effective on and from 12 August, 2005.

(T01-0236)

Exploration Licence No. 5982, ZINTOBA PTY.LTD. (ACN 001 318 341), County of Mouramba, Map Sheet (8033, 8133), area of 18 units, for a further term until 29 August, 2006. Renewal effective on and from 13 July, 2005.

(T02-0045)

Exploration Licence No. 6022, ILUKA RESOURCES LIMITED (ACN 008 675 018), County of Windyer, Map Sheet (7131, 7132), area of 38 units, for a further term until 17 November, 2006. Renewal effective on and from 20 June, 2005.

(05-2170)

Exploration Licence No. 6023, ILUKA RESOURCES LIMITED (ACN 008 675 018), County of Tara, Map Sheet (7130), area of 39 units, for a further term until 17 November, 2006. Renewal effective on and from 20 June, 2005.

IAN MACDONALD MLC,
Minister for Natural Resources,
Minister for Primary Industries
and Minister for Mineral Resources.

CANCELLATION OF AUTHORITIES AT REQUEST OF HOLDERS

NOTICE is given that the following authorities have been cancelled:

(T03-0117)

Exploration Licence No. 6160, GOLDEN CROSS OPERATIONS PTY. LTD. (ACN 050 212 827), County of Roxburgh, Map Sheet (8831), area of 7 units. Cancellation took effect on 17 August, 2005.

(T03-0986)

Exploration Licence No. 6205, GOLDEN CROSS OPERATIONS PTY. LTD. (ACN 050 212 827), County of Roxburgh, Map Sheet (8831), area of 8 units. Cancellation took effect on 17 August, 2005.

(T03-0989)

Exploration Licence No. 6208, GOLDEN CROSS OPERATIONS PTY. LTD. (ACN 050 212 827), County of Cowper, Map Sheet (8236, 8237), area of 112 units. Cancellation took effect on 17 August, 2005.

IAN MACDONALD MLC,
Minister for Natural Resources,
Minister for Primary Industries
and Minister for Mineral Resources.

PART CANCELLATION

NOTICE is given that the following authority has been cancelled in part:

(T02-0086)

Exploration Licence No. 5999, Alan Robert CAMERON and Sylvia May CAMERON.

Description of area cancelled:

An area of 391.3 hectares Lot 7, DP 757133 and Lot 18, DP 757133 has been cancelled. For further information contact Titles Branch.

Part cancellation took effect on 14 July 2005.

The authority now embraces an area of 11 units.

IAN MACDONALD MLC,
Minister for Natural Resources,
Minister for Primary Industries
and Minister for Mineral Resources.

TRANSFER

(04-4682)

Exploration Licence No. 6428, formerly held by RENISON BELL HOLDINGS PTY LTD (ACN 100 163 942) has been transferred to RENISON BELL HOLDINGS PTY LTD (ACN 100 163 942) and NORTHERN ENERGY CORPORATION LIMITED (ACN 081 244 395). The transfer was registered on 10 August, 2005.

IAN MACDONALD MLC,
Minister for Natural Resources,
Minister for Primary Industries
and Minister for Mineral Resources.

Roads and Traffic Authority

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Tumut
Plains in the Tumut Shire Council area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of His Excellency the Lieutenant Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

T. D. CRAIG,
Manager, Compulsory Acquisition & Road Dedication
Roads and Traffic Authority of New South Wales

SCHEDULE

All that piece or parcel of land situated in the Tumut Shire Council area, Parish of Blowering and County of Buccleuch, shown as Lot 1, Deposited Plan 1074888, being part of the land in Reserve No. 87967 for Public Recreation notified in *Government Gazette* No. 133 of 9 October 1970 on page 4105.

The land is said to be in the possession of the Crown and Tumut Shire Council Reserves Reserve Trust (trustee).

(RTA Papers FPP 5M584; RO 439.1054)

ROADS ACT 1993

LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land at Table Top in
the Greater Hume Shire Council area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

T. D. CRAIG,
Manager, Compulsory Acquisition & Road Dedication
Roads and Traffic Authority of New South Wales

SCHEDULE

All that piece or parcel of land situated in the Greater Hume Shire Council area, Parish of Yambula and County of Goulburn, shown as Lot 74, Deposited Plan 1083844 being part of Camping Reserve No. 63509 notified in *Government Gazette* No. 121 of 26 August 1932 on page 3036.

The land is said to be in the possession of the Crown and Hume Rural Lands Protection Board.

(RTA Papers FPP 5M2524 RO 2/186.1053)

Other Notices

ABORIGINAL LAND RIGHTS ACT 1983

NOTICE

I, the Honourable Milton Orkopoulos, M.P., Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 231 (1) of the Aboriginal Land Rights Act 1983 (the Act), extend the term of the appointment of Mr William MALVERN as Administrator to the Coonabarabran Local Aboriginal Land Council for a maximum period of three (3) calendar months, effective from 15 August 2005. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in section 52 (1) of the Act and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration is not to exceed \$30,000.00 dollars (plus GST).

Signed and Sealed this 15th day of August 2005

MILTON ORKOPOULOS, M.P.,
Minister for Aboriginal Affairs

GOD SAVE THE QUEEN

ASSOCIATIONS INCORPORATION ACT 1984

Transfer of Incorporation Pursuant to Section 48 (4) (a)

TAKE notice that the company "Bathurst Soaring Club" formerly registered under the provisions of the Corporations Act 2001 is now incorporated under the Associations Incorporation Act 1984 as "Bathurst Soaring Club Incorporated" effective 23 August 2005.

CHRISTINE GOWLAND,
Delegate of Commissioner,
Office of Fair Trading

CIVIL LIABILITY ACT 2002

ORDER

I, Robert John Debus, M.P., 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 \$416 000 from 1 October 2005.

Signed at Sydney, this 17th day of July 2005.

BOB DEBUS, M.P.,
Attorney General

COAL MINES REGULATION ACT 1982

MINES INSPECTION ACT 1901

Extension of Appointment of an
Inspector of Mechanical Engineering

James Jacob Spigelman, AC, Lieutenant Governor

I, James Jacob Spigelman, AC, Lieutenant Governor of New South Wales, with the advice of the Executive Council and pursuant to the provisions of section 7 (1) (h) of the Coal

Mines Regulation Act 1982 and section 32 (1) of the Mines Inspection Act 1901, have extended the appointment of PETER SUNOL as an Inspector of Mechanical Engineering from 1 May 2005 until 4 May 2005.

Dated this 4th day of May 2005.

By His Excellency's Command

KERRY HICKEY, M.P.,
Minister for Mineral Resources

COAL MINES REGULATION ACT 1982

MINES INSPECTION ACT 1901

Extension of Appointment of an
Inspector of Mechanical Engineering

James Jacob Spigelman, AC, Lieutenant Governor

I, James Jacob Spigelman, AC, Lieutenant Governor of New South Wales, with the advice of the Executive Council and pursuant to the provisions of section 7 (1) (h) of the Coal Mines Regulation Act 1982 and section 32 (1) of the Mines Inspection Act 1901, have extended the appointment of PETER SUNOL as an Inspector of Mechanical Engineering from 5 May 2005 until such time as his appointment is revoked in writing.

Dated this 4th day of May 2005.

By His Excellency's Command

KERRY HICKEY, M.P.,
Minister for Mineral Resources

CO-OPERATIVES ACT 1992

Notice Under Section 601AB of the Corporations Law as applied by Section 325 of the Co-Operatives Act 1992

NOTICE is hereby given that the Co-operative mentioned below will be deregistered when two months have passed since the publication of this notice.

Bellingen Country Craft Co-Operative Ltd

Dated this twenty fourth day of August 2005.

C. GOWLAND,
Delegate of the Registrar of Co-Operatives

CO-OPERATIVES ACT 1992

Change Of Name

IT is hereby notified that on 23 August 2005, I registered a change of name for Gloucester Gourmet Foods Co-operative Limited to Barrington Beef Co-operative Ltd.

Dated this 24 day of August 2005.

ANNETTE HOBSON,
Delegate of the Registrar of Co-operatives

CRIMINAL PROCEDURE REGULATION 2005**ORDER**

I, Robert John Debus, M.P., Attorney General, in pursuance of clause 1 of Schedule 5 of the Criminal Procedure Regulation 2005, do, by this my Order, declare Liverpool Local Court, Tweed Heads Local Court, Byron Bay Local Court, Mullumbimby Local Court and Murwillumbah Local Court to be a participating court for the community conference intervention program referred to in clause 19A of that Regulation.

Dated this 18th day of August 2005.

BOB DEBUS, M.P.,
Attorney General

Explanatory Note

The object of this Order is to declare Liverpool Local Court, Tweed Heads Local Court, Byron Bay Local Court, Mullumbimby Local Court and Murwillumbah Local Court to be a participating court for the community conference intervention program established under Part 4 of Chapter 7 of the Criminal Procedure Act 1986.

This order is made under the definition of participating court in clause 1 of Schedule 5 to the Criminal Procedure Regulation 2005.

DORMANT FUNDS ACT 1942

In re the Fund known as Celeste Tate Appeal Fund

NOTICE is hereby given that proposals have been formulated under the Dormant Funds Act 1942, in relation to the above Fund and that a copy of such proposals may be inspected at the office of the Commissioner, Public Trustee, 19 O'Connell Street, Sydney. Any person interested in the administration, utilisation or application of the said Dormant Fund may on or before 30 September 2005 deliver or send to the Commissioner at 19 O'Connell Street, Sydney, a request in writing that the proposals be referred by the Commissioner to the Charity Referees. Such request must state an address for service of notices on the person by whom the request is made.

Dated at Sydney this 17th day of August 2005.

P. J. WHITEHEAD,
Commissioner of Dormant Funds

FIRE BRIGADES ACT 1989

Order under Section 5 (2)

I, Professor Marie Bashir, A.C., Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of section 5 (2) of the Fire Brigades Act 1989, do, by this my Order, vary the Orders published in *Government Gazette* No. 137 of 13 October 2000 (Alstonville), No. 37 of 4 March 1983 (Batemans Bay, Boorowa, Cootamundra, Crookwell, Goulburn, Gundagai, Holbrook, Moama and Moruya), No. 179 of 21 November 1986 (Byron Bay), No. 89 of 25 May 2001 (Culcairn), No. 180 of 23 November 2001 (Finley and Tocumwal), No. 119 of 7 November 1997 (Kingscliff and Tweed Heads), No. 37 of 31 March 1989 (Muswellbrook), No. 104 of 13 September 1996 (Singleton), and reconstitute the Fire Districts in the following Schedule

and declare that the provisions of the Fire Brigades Act shall apply to the areas described in the Schedule.

Signed at Sydney, this 10th day of August 2005

By Her Excellency's Command,

TONY KELLY, M.L.C.,
Minister for Emergency Services

SCHEDULE

In this schedule, a reference to a local government area is a reference to that area with boundaries as at the date of publication of the Order in the *Government Gazette*.

Alstonville Fire District

Comprising the existing Fire District in Ballina Shire, with additions as delineated on Map No. 204/05/1 kept in the office of the NSW Fire Brigades.

Batemans Bay Fire District

Comprising the existing Fire District in Eurobodalla Shire, with additions as delineated on Map No. 217/05/1 kept in the office of the NSW Fire Brigades.

Boorowa Fire District

Comprising the existing Fire District in Boorowa Council, with an addition as delineated on Map No. 232/05/1 kept in the office of the NSW Fire Brigades.

Byron Bay Fire District

Comprising the existing Fire District in Byron Shire, with additions and an excision as delineated on Map No. 243/05/1 kept in the office of the NSW Fire Brigades.

Cootamundra Fire District

Comprising the existing Fire District in Cootamundra Shire, with additions and an excision as delineated on Map No. 266/05/1 kept in the office of the NSW Fire Brigades.

Crookwell Fire District

Comprising the existing Fire District in Upper Lachlan Council, with additions as delineated on Map No. 271/05/1 kept in the office of the NSW Fire Brigades.

Culcairn Fire District

Comprising the existing Fire District in Greater Hume Shire, with an excision as delineated on Map No. 272/05/1 kept in the office of the NSW Fire Brigades.

Finley Fire District

Comprising the existing Fire District in Berrigan Shire, with additions as delineated on Map No. 293/05/1 kept in the office of the NSW Fire Brigades.

Goulburn Fire District

Comprising the existing Fire District in Goulburn Mulwaree Council, with additions and a deletion as delineated on Map No. 305/05/1 kept in the office of the NSW Fire Brigades.

Gundagai Fire District

Comprising the existing Fire District in Gundagai Shire, with additions as delineated on Map No. 313/05/1 kept in the office of the NSW Fire Brigades.

Holbrook Fire District

Comprising the existing Fire District in Greater Hume Shire, with additions and an excision as delineated on Map No. 324/05/1 kept in the office of the NSW Fire Brigades.

Kingscliff Fire District

Comprising the existing Fire District in Tweed Shire Council area, with additions as delineated on Map No. 347/05/1 kept in the office of the NSW Fire Brigades.

Moama Fire District

Comprising the existing Fire District in Murray Shire, with an addition as delineated on Map No. 379/05/1 kept in the office of the NSW Fire Brigades.

Moruya Fire District

Comprising the existing Fire District in Eurobodalla Shire, with additions as delineated on Map No. 384/05/1 kept in the office of the NSW Fire Brigades.

Muswellbrook Fire District

Comprising the existing Fire District in Muswellbrook Shire, with additions and excisions as delineated on Map No. 392/05/01 kept in the office of the NSW Fire Brigades.

Singleton Fire District

Comprising the existing Fire District in the Singleton Council, with additions and excisions as delineated on Map No. 444/05/1 kept in the office of the NSW Fire Brigades.

Tocumwal Fire District

Comprising the existing Fire District in Berrigan Shire, with an addition as delineated on Map No. 463/05/1 kept in the office of the NSW Fire Brigades.

Tweed Heads Fire District

Comprising the existing Fire District in Tweed Shire, with additions as delineated on Map No. 468/05/1 kept in the office of the NSW Fire Brigades.

GEOGRAPHICAL NAMES ACT 1966

Notice of Assignment of Address Locality Names and Boundaries within the Broken Hill City Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day assigned the name Broken Hill as an address locality covering the entire Broken Hill Local Government Area as shown on map GNB3743/A.

The position and extent of this feature is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's website at www.gnb.nsw.gov.au.

WARWICK WATKINS,
Chairman

Geographical Names Board
PO Box 143, Bathurst 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of proposal to Determine Address Locality Names and Boundaries within the Willoughby Local Government Area

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to determine the address locality names and boundaries in the Willoughby Local Government Area as shown on map GNB3554/A.

The proposed names and boundaries for the address localities of Artarmon, Castle Cove, Castlecrag, Chatswood, Chatswood West, Lane Cove North, Middle Cove, Naremburn, North Willoughby, Northbridge, Roseville, St Leonards, Willoughby and Willoughby East as shown on map GNB3554/A may be viewed at Willoughby Council Administrative Centre, Level 4, 31 Victor Street, Chatswood, Chatswood Library, 407 Victoria Avenue, Chatswood and the office of the Geographical Names Board, Land and Property Information, 346 Panorama Avenue, Bathurst NSW 2795 for a period of one month from 2 September 2005.

Any person wishing to make comment upon this proposal may within one (1) month of the date of this notice write to the Secretary of the Board with that comment.

WARWICK WATKINS,
Chairman

Geographical Names Board
PO Box 143, Bathurst 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Determination of Address Locality Names and Boundaries within the Tamworth Regional Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day assigned the following names and boundaries for address localities in the Tamworth Regional Local Government Area for the areas that were formally Nundle Shire Council and Manilla Shire Council as shown on map GNB3805.

The names and boundaries for the address localities of Borah Creek, Halls Creek, Manilla, Namoi River, New Mexico, Retreat, Rushes Creek, Upper Manilla, Warrabah, Watsons Creek, Wimborne and Wongo Creek have been assigned in the former Manilla Council Area.

In addition the names and boundaries for the address localities of Barry, Bowling Alley Point, Crawney, Duncans Creek, Dungowan, Garoo, Gowrie, Hanging Rock, Loomberah, Niangala, Nundle, Ogunbil and Woolomin, have been assigned in the former Nundle Council Area.

The position and extent of this feature is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's website at www.gnb.nsw.gov.au.

WARWICK WATKINS,
Chairman

Geographical Names Board
PO Box 143, Bathurst 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Assignment of New Address Locality called Ropes Crossing in the Blacktown City Local Government Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day assigned the name Ropes Crossing as a new address locality in the Blacktown City Local Government Area as shown on map GNB3725.

The position and extent of this feature is recorded and shown within the Geographical Names Register of New South Wales. This information can be accessed through the Board's website at www.gnb.nsw.gov.au.

WARWICK WATKINS,
Chairman

Geographical Names Board
PO Box 143, Bathurst 2795

LOCAL GOVERNMENT ACT 1993

Clarence Valley and Coffs Harbour Regional Water Supply
Vesting of land in Clarence Valley Council

THE Minister for Energy and Utilities of the State of New South Wales, declares that the land described in the Schedule hereto, which was acquired for the purpose of the Clarence Valley and Coffs Harbour Regional Water Supply Scheme, is vested in Clarence Valley Council.

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

SCHEDULE LAND

Lot 1 in Deposited Plan 1051553, Lot 1 in Deposited Plan 1066515, Lot 2 in Deposited Plan 1066515.

COM Reference 198

LOCAL GOVERNMENT ACT 1993 – PROCLAMATION

M. BASHIR, Governor

I, Professor Marie Bashir, A.C., Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 218B of the Local Government Act 1993, hereby alter the boundaries of the Area of Warrumbungle Shire as described by Proclamation in *Government Gazette* No. 136 of 25 August 2004 and the Area of Narrabri Shire as described by Proclamation in *Government Gazette* No. 65 of 25 June 1993, by taking part of the Area of Warrumbungle Shire described in Schedule A hereto and adding it to the Area of Narrabri Shire so that the boundaries of the Area of Narrabri Shire and the boundaries of the Area of Warrumbungle Shire shall be as respectively described in Schedule B and Schedule C hereto.

Signed and sealed at Sydney, this 10th day of August 2005.

By Her Excellency's Command,

KERRY HICKEY, M.P.,
Minister for Local Government

GOD SAVE THE QUEEN!

SCHEDULE A

Area to be transferred from the Area of Warrumbungle Shire to the Area of Narrabri Shire

Area about 0.28 square kilometres: Being that part of Lot 2, DP750250, lying in Warrumbungle Shire.

SCHEDULE B

Area of Narrabri Shire (as altered)

Area about 13126.66 square kilometres: Commencing at the junction of the generally eastern boundary of the Parish of Pilliga, County of Baradine with Turragulla Creek; and bounded thence by that creek upwards to the southern prolongation of the eastern boundary of Portion 69, Parish of Talluba; by that prolongation and boundary northerly, part of the northern boundary of that portion westerly and the westernmost western, the southernmost northern and the easternmost western (and its prolongation) boundaries of Portion 33 northerly, easterly and again northerly to Namoi River; by that river downwards to the southern prolongation of the eastern boundary of Portion 6, Parish of Coolga, County of Jamison; by that prolongation and boundary northerly, the northern boundary of that portion and part of the northern boundary of Portion 7 westerly to the southern prolongation of the eastern boundary of Portion 49; by that prolongation and boundary northerly and part of the northern boundary of that portion westerly to the southern prolongation of the road forming part of the western boundary of the Parish of Cubbaroo; by that prolongation and road northerly, the road forming part of the northern boundary of that parish easterly and the road forming the eastern boundary of Portion 36, Parish of Jamison northerly to the south-eastern boundary of Portion 47; by part of that boundary and the south-eastern boundary of Portion 11, Parish of Warrambool, and its prolongation north-easterly and part of the south-western boundary of Portion 64 north-westerly to Cubbaroo Warrambool; by that Warrambool downwards to the generally south-eastern boundary of Portion 75; by part of that boundary south-westerly, the south-western, the generally north-western and the northern (and its prolongation) boundaries of that portion north-westerly, generally north-easterly and easterly, part of the western boundary of Portion 73 southerly, the generally north-western and the generally southern boundaries of Portion 70 and the southern boundary of Portion 71 generally south-westerly and generally easterly and part of the western and part of the north-western boundaries of Portion 48, Parish of Burren East northerly and north-easterly to the south-eastern prolongation of the south-western boundary of Portion 44; by that prolongation and boundary north-westerly, the north-western boundary of that portion and the generally north-western and the northern boundaries of Portion 41 generally north-easterly and easterly to the generally western boundary of the Parish of Long Point; by part of that boundary generally northerly, part of the generally northern boundary of that parish easterly, the eastern boundary of the Parish of Dealwarraldi northerly, the northernmost southern and the westernmost western boundaries of the Parish of Vickery westerly and northerly and the generally western boundary of the Parish of Clements and part of the western boundary of the Parish of Markham, County of Benarba generally northerly to the road forming the southern boundaries of Portions 12, Parish of Markham, 13, 26, 27, 16, Parish of Bunna Bunna, 29, 30, 32, 33, 22, 46, Parish of Doorabeeba, 45, 43, 44 and 47; by that road and its prolongation easterly to the drain flowing from Moomin Bore into Millie Creek; by that drain downwards and Millie Creek upwards to the southern boundary of T.S.R. 35546; by part of that boundary easterly and the eastern boundary of that reserve northerly to the north-eastern corner of that reserve; by a line easterly to the western boundary of Portion 25, Parish of Gehan, County of Jamison; by part of that boundary northerly to Little Bumble Creek; by that creek upwards to the western boundary of Portion 48; by that boundary southerly, the southern boundary

of that portion easterly, part of the western boundary of Portion 38 and the westernmost western boundaries of Portions 54 and 39 southerly and the southernmost northern and easternmost eastern boundaries of Portion 60 easterly and southerly to Millie Creek, aforesaid; by that creek upwards to the southern boundary of Portion 22, Parish of Manamoi; by that boundary easterly, the western boundary of Portion 10, a line, and the generally western boundary of Portion 15 and its prolongation generally northerly to the road forming the southern boundaries of Portions 18 and 33; by that road easterly, the road forming the eastern boundaries of Portions 36, 12, Lot C D.P. 397340 and Portion 6 southerly, the road forming the generally southern boundaries of Portions 30, 7 and 23 and its prolongation generally easterly to the Werris Creek-Mungindi Railway; by that railway south-easterly to the generally southern boundary of the Parish of Waterloo, by that boundary generally easterly to the generally north-western boundary of Portion 115, Parish of Myall Hollow; by part of that boundary generally north-easterly to the reserved road within that portion; by that road and its continuation easterly to the generally eastern boundary of Lot 3, D.P. 24614; by that boundary generally southerly, the southern boundary of that lot westerly, the south-western and the southern boundaries of Lot 1, D.P. 204936 south-easterly and easterly, part of the generally western and the southern boundaries of Lot 2, D.P. 204936 southerly and easterly, part of the generally western boundary of Lot 9A, D.P. 416789 and the western boundary of Lot 9B, D.P. 416789 generally southerly, the south-western boundaries of the last-mentioned lot and Lot 1, D.P. 228494 south-easterly, the south-western and southern boundaries of Lot 2, D.P. 228494 and part of the southern boundary of Lot 171, D.P. 582843 south-easterly and easterly to the northern prolongation of the western boundary of Portion 145, Parish of Mellburra; by that prolongation and boundary southerly, the generally southern and the eastern boundaries of that portion and the eastern boundary of Lot 1, D.P. 251467 generally easterly and northerly to the generally north-eastern boundary of the County of Jamison; by part of that boundary and part of the generally north-eastern boundary of the County of Nandewar generally south-easterly to the south-eastern boundary of Portion 8, Parish of Rusden; by that boundary south-westerly, part of the northernmost southern boundary of that portion westerly, part of the generally eastern boundary of Portion 17 generally southerly, the generally northern boundaries of Portions 16 and 14 generally easterly, part of the generally western and the generally southern boundaries of Portion 32 generally southerly and generally easterly, the generally south-western and the generally southern boundaries of Portion 40 generally south-easterly and generally easterly, the generally south-eastern boundary of Portion 42 generally north-easterly, the generally north-eastern boundary of Portion 31 generally south-easterly, the generally western boundary of Portion 43 generally southerly, part of the generally north-western, the generally western and part of the generally southern boundaries of Portion 45 generally south-westerly, generally southerly and generally easterly and the eastern and the generally south-eastern boundaries of Portion 19 southerly and generally south-westerly to Cocks Creek; by that creek, Gap and Maules Creeks downwards to the western boundary of Portion 21, Parish of Connor; by that boundary southerly, part of the southern boundary of that portion easterly, the eastern and southernmost southern boundaries of Portion 27 southerly and westerly, part of the eastern boundary of Portion 23 southerly, the northern and the eastern boundaries of Portion 28 easterly and southerly and the southern boundaries of Portions 9 and 7 easterly to the generally eastern boundary of

the parish; by part of that boundary generally southerly and part of the generally northern boundary of the Parish of Mihi generally westerly to the generally north-eastern boundary of Portion 22; by that boundary generally south-easterly, part of the generally north-western and the generally south-western boundaries of Portion 36 generally south-westerly and generally south-easterly, the western, the generally south-western and the generally south-eastern (and its prolongation) boundaries of Portion 33 southerly, generally south-easterly and generally north-easterly and part of the western and the generally southern boundaries of Portion 20 southerly and generally easterly to the generally eastern boundary of the parish; by part of that boundary generally south-westerly, the south-western boundary of Portion 14 south-easterly, the generally eastern boundary of that parish generally southerly to Barneys Spring Creek; by that creek downwards to the generally southern boundary of the Parish of Mihi; by part of that boundary generally westerly, X part of the generally eastern and part of the generally southern boundaries of the Parish of Wean generally southerly and generally westerly and part of the generally western boundary of the Parish of Tulcumba southerly to the eastern prolongation of the southern boundary of Portion 17, Parish of Vickery; by that prolongation, boundary and its prolongation westerly to the generally western boundary of the parish; by part of that boundary northerly and the generally southern boundary of the Parish of Boggabri generally westerly to Namoi River, aforesaid; by that river upwards to the northern prolongation of the western boundary of Portion 34, Parish of Gulligal, County of Pottinger; by that prolongation, boundary and its prolongation southerly to the generally southern boundary of the parish; by part of that boundary generally westerly to the Werris Creek - Mungindi Railway; by that railway north-westerly to the eastern prolongation of the road forming the southern boundary of Lot 1, D.P. 191204; by that prolongation and road westerly, the road forming the western boundary of that lot northerly and the road forming the southern boundary of Portion 198 westerly to southern prolongation of the eastern boundary of Portion 194; by that prolongation and boundary and the eastern boundaries of Portions 195, a line, and 39 northerly and part of the southern boundary of Portion 38 and its prolongation westerly to Cocks Creek; by that creek upwards to the eastern prolongation of the road forming the southern boundaries of Portions 74, Parish of Walla Walla, 32, 34, 29 and 71; by that prolongation and boundary generally westerly, the road forming the westernmost western boundary of Portion 50 southerly and the road forming the southern boundaries of Portions 56, Parish of Walla Walla West, 12 and 20 and its prolongation westerly to the eastern boundary of Portion 4; by part of that boundary and its prolongation southerly, part of the northern, the eastern and part of the southern boundaries of Portion 15 easterly, southerly and westerly and the eastern and the southern boundaries of Portion 38 southerly and westerly to the northern prolongation of the western boundary of Portion 48; by that prolongation, boundary and its prolongation southerly to the road forming the southern boundary of the last-mentioned portion; by that road easterly, the road forming the eastern boundary of Portion 33 and the eastern and generally southern boundaries of Portion 45 and the southern boundary of Portion 55 southerly and generally westerly, the road forming the eastern boundaries of Portions 15 and 16, Parish of Denison West southerly and the road forming the southern boundary of the last-mentioned portion westerly to the northern prolongation of the easternmost eastern boundary of Portion 21; by that prolongation, boundary and its prolongation southerly and the northern boundaries of Portions

10, 12 and 11 and its prolongation westerly to the generally north-western boundary of the parish; by that boundary generally south-westerly to the eastern prolongation of the southernmost southern boundary of the Parish of Galloway, County of White; by that prolongation, boundary and its prolongation westerly to Borah Creek; by that creek downwards to the southernmost southern boundary of Portion 5, Parish of Cocaboy; by a line south-westerly to a line parallel to and distant 650 metres south of the southern boundary of Portion 1, Parish of Loftus; by that line westerly to a point south-east of the intersection of the eastern prolongation of the southern boundary of the Parish of Denobollie and Timmallallie Creek; by a line north-westerly to that point; by the eastern prolongation and the southern boundary of the Parish of Denobollie westerly to its junction with the generally eastern boundary of the County of Baradine; by a line south-westerly to a point on the eastern boundary of Portion 23, Parish of Coolangoola distant 440 metres north of the south-eastern corner of that portion; by a line north-westerly to a point on the northern boundary of Portion 7, Parish of Cumbil distant 280 metres west of the north-eastern corner of that portion; by the continuation of that line for a further 200 metres; by a line south-westerly to the south-western corner of that portion; by Etoo Creek downwards to the north-eastern corner of Portion 3, Parish of Euligal; by a line generally westerly to a point on the southern boundary of Portion 11 distant 1,220 metres west of the south-eastern corner of that portion; by a line north-westerly to a point on the southernmost southern boundary of Portion 1, Parish of Boorimah distant 940 metres west of the southernmost south-eastern corner of that portion; by a line north-easterly to a point on the western boundary of Portion 2 distant 400 metres north of the south-western corner of that portion; by that boundary north 760 metres; by a line north-westerly to a point on the north-western boundary of Portion 48, Parish of Wangan distant 1,380 metres south-west of the northern corner of that portion; by a line south-westerly to the north-eastern corner of Portion 3; by the northern boundary of that portion and its prolongation westerly to the road from Pilliga to Baradine via Gwabegar; by that road southerly to Baradine Creek; by that creek upwards to its intersection with the Gwabegar Branch Railway; by a line south-westerly to Merriwee Creek; by a line north-westerly to the southern prolongation of the western boundary of Portion 2, Parish of Gwabegar; by a line south-westerly to a point on the western boundary of the Parish of Ceelnoy distant 2,200 metres north of the south-western corner of that parish; by part of the western boundaries of the last-mentioned parish and the Parish of Gwabegar northerly and the eastern prolongation of the southern boundary of the Parish of Bulliwly easterly to the southern prolongation of the western boundary of Portion 3, Parish of Quegobla; by that prolongation and boundary, the westernmost western boundary of Portion 4 and the easternmost western boundary of Portion 1 and its prolongation northerly to the generally eastern boundary of the Parish of Pilliga, aforesaid, and by that boundary generally northerly to the point of commencement.

SCHEDULE C

Area of Warrumbungle Shire (as altered)

Area about 12465.57 square kilometres: Commencing at the junction of the eastern boundary of the Parish of Bungaba, County of Bligh with Talbragar River: and bounded thence by part of that boundary southerly, the generally northern boundary of the Parish of Bligh generally easterly and part of the generally south-eastern boundary of the Parish of Nandoura

northerly to the generally south-western boundary of Portion 138; by that boundary and the generally north-western and northern boundaries of that portion generally north-westerly, generally north-easterly and generally easterly to the generally south-eastern boundary of the Parish of Nandoura; again by part of that boundary generally north-easterly to the Great Dividing Range; by that range generally north-easterly to the generally south-eastern boundary of the Parish of Nandoura; again by part of that boundary and the generally northern boundary of that parish generally north-easterly and generally westerly to Talbragar River, aforesaid; by that river upwards to the generally northern boundary of Portion 77, Parish of Warung; by part of that boundary generally easterly and part of the generally western boundary of Portion 12, Parish of Cunna easterly and northerly to the generally northern boundary of the County of Bligh; by part of that boundary and part of the generally south-eastern boundary of the Parish of Moredevil, County of Pottinger generally north-westerly to the generally south-western boundary of Portion 191, of Parish of Bundella; by that boundary and the generally south-western boundaries of Portions 189, 187 and 195 (part) generally north-westerly, the generally eastern boundary of Portion 186 generally southerly and part of the generally north-eastern, the generally south-eastern and the southern boundaries of Portion 143 south-easterly, generally south-westerly and westerly to Cox Creek; by that creek upwards to the north-eastern prolongation of the south-eastern boundary of Portion 58; by that prolongation and boundary south-westerly to the generally south-western boundary of the County of Pottinger; by part of that boundary generally north-westerly, the generally southern boundary of the Parish of Clarke, County of Pottinger generally easterly to Coxs Creek, aforesaid; by that creek downwards to the eastern prolongation of a southern boundary of Portion 147, Parish of Premer; by that prolongation and part of that boundary westerly to a point 400 metres east of the westmost western boundary of Portion 151, a line 100 metres southerly, a line 260 metres easterly, a line 100 metres southerly, a line westerly to the generally eastern boundary of Portion 104, Parish of Bomera; by part of that boundary and part of the generally eastern boundary of Portion 119 generally southerly to a point 260 metres south of the north boundary of Portion 119, a line westerly to the southern prolongation of the western boundary of Portion 140; by that prolongation, boundary and its prolongation northerly to the road from Breeza to Binnaway and by that road generally easterly to Coxs Creek; by that creek downwards and Bombera Creek, upwards to the eastern prolongation of northern boundary of Portion 42, Parish of Tambar, County of Pottinger; by that prolongation, boundary and part of the western boundary of that portion westerly and southerly to the north-eastern corner of Portion 46; by the northern boundary of that portion and Portion 9, a line, the northernmost boundary of portion 33, Parish of Wilson, and the generally northern boundary of Portion 18, generally westerly to the north-western corner of the said Portion 18; by a line north to the southern boundary of Portion 63, Parish of Urangera; by part of that boundary, the generally southern boundary of Portion 43, the generally western boundary of that portion and Portions 24, 54 and 44 and Portion 15, Parish of Nombi, generally westerly and northerly, the northern boundary of that portion and Portion 9 and part of the northern boundary Portion 29, Parish of Bingle, easterly, the western boundary of that portion and the westernmost and part of the westernmost northern boundary of Portion 100, northerly and easterly, the western boundary of that portion and Portion 34, northerly, by part of the southern boundary and the eastern boundary of Portion 87, easterly and northerly, the generally northernmost

northern boundary of Portion 101 and the northern boundary of Portion 105, generally easterly to Coxs Creek, aforesaid, by that creek downwards to the eastern prolongation of the generally southern boundary of the Parish of Coogal; by that prolongation and boundary and part of the generally western boundary of that parish generally westerly and northerly, the south-eastern and north-eastern boundaries of Portion 195 north-easterly and north-westerly, again the generally western boundary of the Parish of Coogal generally northerly to the north-western corner of the south-western boundary of Portion 191; by a line due east for a distance of 705.9 metres and a line due north for a distance of 2 845 metres; by a line westerly to the westernmost south-western corner of Portion 54; by the westernmost western boundary of that portion and Portion 53 northerly, by the western boundary of that Portion 50, Portion 194 and Portion 49, the westernmost boundary of Portion 46 and a line northerly to the westernmost northern boundary of Portion 86, Parish of Denison; by that boundary westerly, by a line along the eastern boundary of Portion 85, by the northern boundary and by a line along the western boundary of that portion, northerly, westerly and southerly to the generally northern boundary of the Parish of Brigalow; by part of that boundary generally westerly to Kerringle Creek; by that creek upwards to a point about 221.3 metres east of the south-western corner of Portion 7, Parish of Denison West; by a line south to a line point east of the south-eastern corner of Portion 2; by a line west to that corner; by the generally southern boundary of that portion and the southern boundary of Portion 157, generally westerly, part of the generally southern and part of the generally north-western boundaries of the Parish of Denison West generally westerly and generally north-easterly, the eastern prolongation of the southernmost southern boundary of the Parish of Galloway, County of White; by that prolongation, boundary and its prolongation westerly to Borah Creek; by that creek downwards to the southernmost southern boundary of Portion 5, Parish of Cocaboy; by a line south-westerly to a line parallel to and distance 650 metres south of the southern boundary of Portion 1, Parish of Loftus; by that line westerly to a point south-east of the intersection of the eastern prolongation of the southern boundary of the Parish of Denobollie and Timmallallie Creek; by a line north-westerly to that point; by the eastern prolongation and the southern boundary of the Parish of Denobollie westerly to its junction with the generally eastern boundary of the County of Baradine; by a line south-westerly to a point on the eastern boundary of Portion 23, Parish of Coolangoola distant 440 metres north of the south-eastern corner of that portion; by a line north-westerly to a point on the northern boundary of Portion 7, Parish of Cumbil distant 280 metres west of the north-eastern corner of that portion; by the continuation of that line for a further 200 metres; by a line south-westerly to the south-western corner of that portion; by Etoo Creek downwards to the north-eastern corner of Portion 3, Parish of Euligal; by a line generally westerly to a point on the southern boundary of Portion 11 distant 1 220 metres west of the south-eastern corner of that portion; by a line north-westerly to a point on the southernmost southern boundary of Portion 1, Parish of Boorimah distant 940 metres west of the southernmost south-eastern corner of that portion; by a line north-easterly to a point on the western boundary of Portion 2 distant 400 metres north of the south-western corner of that portion; by that boundary north 760 metres; by a line north-westerly to a point on the north-western boundary of Portion 48, Parish of Wangan distant 1 380 metres south-west of the northern corner of that portion; by a line south-westerly to the north-eastern corner of Portion 3; by the northern boundary of that portion and its prolongation westerly to the road from Pilliga to

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

NATIONAL PARKS AND WILDLIFE ACT 1974

PROCLAMATION

I, Professor Marie Bashir, A.C., Governor of the State of New South Wales, with the advice of the Executive Council and in pursuance of the powers vested in me under section 68 of the National Parks and Wildlife Act 1974, with the consent of every owner and occupier do, on the recommendation of the Director-General of the Department of Environment and Conservation, by this my Proclamation declare the lands described hereunder to be a wildlife refuge for the purposes of the abovementioned Act.

To be known as "Springbrook Wildlife Refuge"

Signed and sealed at Sydney 27th day of July 2005.

MARIE BASHIR,
Governor

By Her Excellency's Command

BOB DEBUS, M.P.,
Minister for the Environment

GOD SAVE THE QUEEN!

Description

Land District – Gosford; Council – Wyong Council

County of Northumberland, Parish of Eglington, 10.28 hectares, being Lot 6, DP 240394. NPWS 05/21547.

LORD HOWE ISLAND ACT 1953Addition of Land to the Lord Howe Island
Permanent Park Preserve

HER Excellency the Governor, with the advice of the Executive Council, has been pleased to approve the addition of land to the Lord Howe Island Permanent Park Preserve as described hereunder.

All that piece or parcel of land situated at Lord Howe Island: Commencing at the mean high water mark of the South Pacific Ocean at a point closest to the most easterly northern corner of portion 230 and bounded thence by a line directly to the most easterly northern corner of portion 230; thence by the northeastern and southern boundaries of portion 230 to the northern corner of portion 101; thence by the boundaries of the said portion 101 to the westernmost point where the boundary of portion 101 intersects with the southeastern boundary of portion 230; thence southwesterly by the boundaries of portion 230 to a point where the boundary of portion 230 intersects the boundary of portion 234; thence by generally eastern and boundaries of the said portion 234 and the common boundary of portions 234 and 237; thence by the western boundary of the said portion 237 to Lagoon Road; thence by the common boundary of Lagoon Road and portion 237; thence by the common boundary of Lagoon Road and portion 104; thence by the common boundaries of the said portion 104 and portions 313 and 314 to the second most northern corner of portion 314; thence by a line generally northeast from that corner to a point intersecting the northeasterly prolongation of the easternmost northeastern boundary of portion 315; thence southeasterly by that prolongation and the common boundary of the said portion 315 and portion 104; thence by the northeastern boundaries of portions 139 and 182; thence by the northwestern, northern and northeastern boundaries of portion 110; thence by the most northerly boundary of portion

114; thence by a line from the western corner of the said boundary to the most northerly corner of portion 115; thence by the northern and western boundaries of the said portion 115; thence by the southwestern boundary of portion 184; thence by the southernmost northwestern boundary of portion 114; thence generally northeasterly by the northwestern boundary of portion 116; thence generally northeasterly by the prolongation of the northwestern boundary of the said portion 116 to a point at the mean high water mark of the South Pacific Ocean; thence by that mean high water mark generally northerly, easterly, southerly and westerly, around all the bays and headlands including Blinky Point and Clear Place Point to the point of commencement.

Dated this 15th day of June 2005

BOB DEBUS, M.P.,
Minister for the Environment

Department of Environment and Conservation, Sydney

NATIONAL PARKS AND WILDLIFE ACT 1974

Southern Richmond Range Parks

Plan of Management

A draft plan of management for Fortis Creek and Mount Pikapene National Parks, Banyabba, Chapmans Peak and Mount Neville Nature Reserves, and Kooyong, Banyabba, Wombat Creek, Laurence Road, Gurrangang and Corymbia State Conservation Areas has been prepared. The plan is available free of charge from the NPWS North Coast Regional Office, Level 3, 49 Victoria Street, Grafton NSW 2460 (Phone 6641 1500). The plan can also be viewed at Grafton Library, 2 Prince Street, Grafton; at the Department of Environment and Conservation Information Centre, Level 14, 59-61 Goulburn Street, Sydney; and on the NPWS website at www.nationalparks.nsw.gov.au.

Written submissions on the draft plan must be received by the Area Manager, Clarence North, NPWS, PO Box 361, Grafton, NSW 2460 by 28 November 2005.

All submissions received by NPWS are a matter of public record and are available for public inspection upon request to NPWS. Your comments on this draft plan of management may contain information that is defined as "personal information" under the NSW Privacy and Personal Information Protection Act 1998. The submission of personal information with your comments is voluntary.

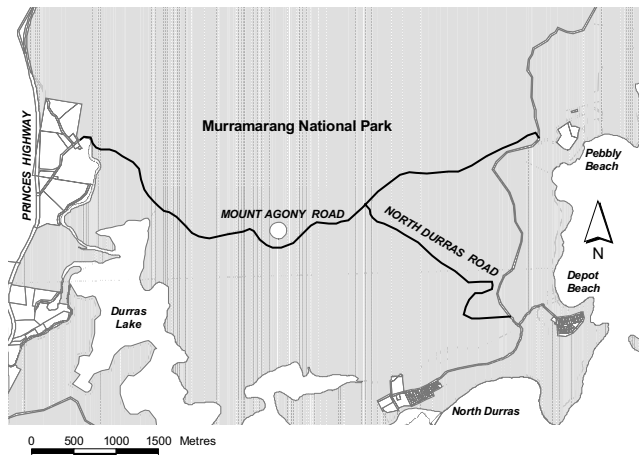
NATIONAL PARK ESTATE (SOUTHERN REGION RESERVATIONS) ACT 2000Order to Exclude Certain Access Roads from
Murramarang National Park

I, Robert Debus, Minister for the Environment, being the Minister administering the National Parks and Wildlife Act 1974, in accordance with the National Park Estate (Southern Region Reservations) Act 2000 and with the concurrence of the Minister administering the Forestry Act 1916, by this my order declare, under Schedule 7 section 8 subsection 6 (a), the access roads described in the Schedule hereunder are excluded from the reservation of the National Park and are vested in the Minister administering National Parks and Wildlife Act 1974.

BOB DEBUS, M.P.,
Minister for the Environment

SCHEDULE

County of St Vincent, Parish of Kioloa, City of Shoalhaven, being the roads named Mount Agony Road and North Durras Road as shown by heavy black lines in the following diagram; NPWS/05/01622.



- NOTES: 1. All roads described in this diagram are 10 metres wide (ie; 5m either side of the centreline of formation) and are subject to survey.
2. Any section of road not formerly State Forest at the commencement of this Act, is not vested in the Minister.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912

State Electoral Office

Appointment of Returning Officer

HER Excellency the Governor, with the advice of the Executive Council, and in pursuance of section 75 of the Parliamentary Electorates and Elections Act 1912 has approved of:

1. The appointment of Returning Officer for the electoral district as set out below:

| <i>State Electoral District</i> | <i>Returning Officer</i> |
|---------------------------------|--------------------------|
| Marrickville | Mr Gregory John GREENING |

MORRIS IEMMA, M.P.,
Premier

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912

State Electoral Office

Resignation of Returning Officers

HER Excellency the Governor, with the advice of the Executive Council has, as a consequence of the resignation of the Returning Officers for the State Electoral Districts set out below, approved of the termination of their appointments.

| <i>State Electoral District</i> | <i>Returning Officer</i> |
|---------------------------------|--------------------------|
| Marrickville | Mr Neil WRIGHT |
| Liverpool | Mr Rocco LEONELLO |
| South Coast | Mr Chris CRAKANTHORP |

MORRIS IEMMA, M.P.,
Premier

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912

Appointment of Pre-Poll Voting Places

By-elections for the State Electoral Districts of Macquarie Fields, Maroubra and Marrickville

Saturday, 17 September 2005

I hereby declare the places set out below to be appointed places for the purpose of section 114P of the Parliamentary Electorates and Elections Act 1912.

I hereby further declare the days and hours specified below in respect of the appointed places to be appointed days and hours for the purpose of the abovesaid section.

Macquarie Fields

| | | |
|---------------------------------|-----------------|------------------------|
| 110 Railway Parade Glenfield | 5-9 September | 8.30 a.m. to 5.30 p.m. |
| | 10 September | 8.30 a.m. to 1.00 p.m. |
| | 12-14 September | 8.30 a.m. to 5.30 p.m. |
| | 15 September | 8.30 a.m. to 8.00 p.m. |
| | 16 September | 8.30 a.m. to 6.00 p.m. |

Maroubra

| | | |
|---|-----------------|------------------------|
| Suites 1, 2, 3 Level 1 | 5-9 September | 8.30 a.m. to 5.30 p.m. |
| | 10 September | 8.30 a.m. to 1.00 p.m. |
| 166 Maroubra Road Maroubra | 12-14 September | 8.30 a.m. to 5.30 p.m. |
| | 15 September | 8.30 a.m. to 8.00 p.m. |
| AND Level 3 Suite 401 Office Tower Westfield Shoppingtown Eastgardens | 16 September | 8.30 a.m. to 6.00 p.m. |

Marrickville

| | | |
|---------------------------------------|-----------------|------------------------|
| 132 Marrickville Road Marrickville | 5-9 September | 8.30 a.m. to 5.30 p.m. |
| | 10 September | 8.30 a.m. to 1.00 p.m. |
| | 12-14 September | 8.30 a.m. to 5.30 p.m. |
| | 15 September | 8.30 a.m. to 8.00 p.m. |
| | 16 September | 8.30 a.m. to 6.00 p.m. |

State Electoral Office

| | | |
|--|-----------------|---------------------|
| Level 20, 207 Kent Street Sydney | 5-9 September | 8.30 a.m. to 5 p.m. |
| | 12-16 September | 8.30 a.m. to 5 p.m. |

COLIN BARRY,
Electoral Commissioner
25 August 2005

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912

POLLING PLACES

PURSUANT to the provisions of section 81 (1) of the Parliamentary Electorates and Elections Act 1912 notice is given of the abolition of the polling place listed below in respect of the electoral district shown:

ABOLITION

MAROUBRA

Prince Henry Hospital

COLIN BARRY,
Electoral Commissioner

State Electoral Office
Level 20, 207 Kent Street, Sydney NSW 2000
25 August 2005

**PARLIAMENTARY ELECTORATES AND
ELECTIONS ACT 1912**

POLLING PLACES

PURSUANT to the provisions of section 81 (1) of the Parliamentary Electorates and Elections Act 1912 notice is given of the appointment and abolition of the polling places listed below in respect of the electoral districts shown:

APPOINTMENT

MACQUARIE FIELDS
Dalmeny Drive

ABOLITION

MACQUARIE FIELDS
Sydney (Macquarie Fields)

MAROUBRA
Sydney (Maroubra)

MARRICKVILLE
Sydney (Marrickville)

COLIN BARRY,
Electoral Commissioner

State Electoral Office
Level 20, 207 Kent Street, Sydney NSW 2000
25 August 2005

POISONS AND THERAPEUTIC GOODS ACT 1966

Authorisation to Supply Poisons and Restricted
Substances on Medical Authority

PURSUANT to clauses 166 and 167 of the Poisons and Therapeutic Goods Regulation 2002, I, John Lumby, Chief Pharmacist, a duly appointed delegate of the Director-General of the Department of Health, do hereby grant authority to registered nurses, hereby specified as a class of persons, to supply:

- (a) for the purpose of clause 16 of that Regulation, a Schedule 2 or 3 substance, and
- (b) for the purpose of clause 52 of that Regulation, a restricted substance

to an outpatient of a public hospital, subject to the following conditions:

- (1) the nurse is employed by an Area Health Service, and
- (2) a medical practitioner is unable to be present to supply the substance to the patient, and
- (3) the supply of the substance to the patient is for emergency use and has been authorised by a medical practitioner at that time, and
- (4) the patient is in immediate need of the substance and a retail or hospital pharmacy service is not available in close proximity at that time, and
- (5) the range and quantity of substances which may be supplied for emergency use has been determined by the Area Health Service, and
- (6) the nurse supplies the substance in the unopened container in which that nurse received it.

This authority does not authorise the supply of drugs of addiction (Schedule 8 substances).

JOHN LUMBY,
Chief Pharmacist

Department of Health, New South Wales,
Sydney, 22 August 2005.

PUBLIC LOTTERIES ACT 1996

Keno

Approval Of Rule Changes

I, The Honourable Grant McBride, M.P., Minister for Gaming and Racing, being the Minister for the time being administering the Public Lotteries Act 1996 ("the Act"), pursuant to section 23 (1) of the Act do hereby approve of the amendments to the Rules for the conduct of games of Keno by the joint licensees Jupiters Gaming (NSW) Pty Limited and ClubKeno Holdings Pty Limited as set out in the addendum to this instrument. These amended Rules take effect on and from 26 August 2005.

Dated this 24th day of August 2005.

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

Rules for Games of Keno

The Keno Rules dated 18 October 2004 (as amended by addenda dated 17 May 1999, 13 September 1999, 1 July 2000, 25 May 2001, 1 March 2002, 1 September 2002, 1 February 2003, 27 June 2003 and 18 October 2004) are further amended as set out in this Addendum.

This Addendum is effective on and from 26 August 2005.

Rule 12 (a)

Delete existing Rule 12 (a) and replace it with the following:

- (a) The drawing of the winning numbers must:

- (i) take place:

- (a) by means of a Draw Device;
- (b) at the Central Site, the Premises of a Club, the Backup Site or other Approved site;
- (c) if the Draw takes place at the Premises of a Club - in an area open at that time to those persons who would normally have access to those Premises;
- (d) if the Draw takes place at any other Approved site - in an area open to the public during Approved hours; and
- (e) in a manner which enables it to be witnessed by an Inspector; and

- (ii) be captured on an Approved medium.

Rule 16

Delete existing Rule 16 and replace it with the following:

- (a) Details of prizes will remain accessible from magnetic media on the Central Site Computer for up to 12 calendar months after the Keno Day to which they relate. After this period prizes may be paid only after submission of an Unclaimed Prize Claim Form forwarded by the Subscriber to the Operating Company.
- (b) All correspondence to a Subscriber relevant to an unclaimed prize shall bear the signature of a representative of the Operating Company and following review by the Inspector will issue to the Subscriber. In the event of a dispute, the decision of the Inspector will be final.

Rule 17 (a)

Delete existing Rule 17 (a) and replace it with the following:

- (a) If a Receipt Ticket, submitted by a Subscriber for processing, is unable to be read by a Terminal or the Writer, or the Receipt Ticket has been lost, a claim for payment may be made by the submission of an Unclaimed Prize Claim Form.

Rule 18 (b)

Delete existing Rule 18 (b) and replace it with the following:

- (b) The following Approved Schedule of Prizes applies to games of Lucky Last only. Prizes are based on a Subscription of \$1 and are expressed in multiples of \$1:

| <i>Number of Spots selected</i> | <i>Lucky Last Prize</i> |
|---------------------------------|-------------------------|
| 1 | 60 |
| 2 | 30 |
| 3 | 20 |
| 4 | 15 |
| 5 | 12 |
| 6 | 10 |
| 7 | 8.50 |
| 8 | 7.50 |
| 9 | 6.50 |
| 10 | 6 |
| 15 | 4 |
| 20 | 3 |
| 40 | 1.5 |

PUBLIC WORKS ACT 1912LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991

Compulsory Acquisition
Bankstown Court House

THE Minister for Commerce, with the approval of Her Excellency the Governor, declares 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 a public work and public buildings.

On publication of this notice in the Government Gazette the land is vested in the Minister for Commerce as Constructing Authority under section 4 of the Public Works Act 1912.

JOHN DELLA BOSCA, M.P.,
Minister for Commerce

SCHEDULE

(Land)

Lot 1 shown in plan registered number SB55570 in the Office of the NSW Department of Commerce having an area of 198.8 square metres and said to be in the possession of Bankstown City Council.

Lot 2 shown in plan registered number SB55570 in the Office of the NSW Department of Commerce having an area of 208.9 square metres and said to be in the possession of Bankstown City Council.

DoC Reference 253

RETENTION OF TITLE

HER Excellency the Governor, by deputation of Her Majesty the Queen, has been pleased to approve of the retention of the title "Honourable" by Mr Robert Carr following his retirement from office and Parliament on 3 August 2005.

ROADS ACT 1993LAND ACQUISITION (JUST TERMS
COMPENSATION) ACT 1991

Notice of Compulsory Acquisition of Land

PARKES Shire Council declares, with the approval of her Excellency the Governor, that the land described in the Schedule below, excluding any mines or deposits of minerals in the land, is acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act for the purposes of the Roads Act 1993.

Dated at Parkes this 23rd day of March 2005.

ALAN McCORMACK,
General Manager

SCHEDULE

Lot 1, DP 1073566

RURAL FIRES ACT 1997

PURSUANT to section 82 of the Rural Fires Act 1997 as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation: Nambucca Shire Council

The Local Bush Fire Danger period has been extended for the period 22 August until 30 September 2005.

During this period permits pursuant to section 87 of the Rural Fires Act 1997 as amended will be required for the lighting of fire for the the purposes of land clearance or fire breaks.

MARK CROSWELLER, AFSM,
Assistant Commissioner
Executive Director Operations
and Regional Management
Delegate

RURAL FIRES ACT 1997

PURSUANT to section 82 of the Rural Fires Act 1997 as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation: Hastings Council

The Local Bush Fire Danger period has been extended for the period 22 August until 30 September 2005.

During this period permits pursuant to section 87 of the Rural Fires Act 1997 as amended will be required for the lighting of fire for the the purposes of land clearance or fire breaks.

MARK CROSWELLER, AFSM,
Assistant Commissioner
Executive Director Operations
and Regional Management
Delegate

RURAL FIRES ACT 1997

PURSUANT to section 82 of the Rural Fires Act 1997 as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation: Shoalhaven and Jervis Bay
Territory

The Local Bush Fire Danger period has been extended for the period 1 September until 30 September 2005.

During this period permits pursuant to section 87 of the Rural Fires Act 1997 as amended, will be required for the lighting of fire for the purposes of land clearance or fire breaks.

MARK CROSWELLER, AFSM,
Assistant Commissioner
Executive Director Operations
and Regional Management
Delegate

RURAL FIRES ACT 1997

PURSUANT to section 82 of the Rural Fires Act 1997 as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation: Kempsey Shire Council

The Local Bush Fire Danger period has been extended for the period 22 August until 30 September 2005.

During this period permits pursuant to section 87 of the Rural Fires Act 1997 as amended will be required for the lighting of fire for the the purposes of land clearance or fire breaks.

MARK CROSWELLER, AFSM,
Assistant Commissioner
Executive Director Operations
and Regional Management
Delegate

RURAL FIRES ACT 1997

PURSUANT to section 82 of the Rural Fires Act 1997 as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation: Eurobodalla Shire Council

The Local Bush Fire Danger period has been extended for the period 1 September until 30 September 2005.

During this period permits pursuant to section 87 of the Rural Fires Act 1997 as amended, will be required for the lighting of fire for the purposes of land clearance or fire breaks.

MARK CROSWELLER, AFSM,
Assistant Commissioner
Executive Director Operations
and Regional Management
Delegate

RURAL FIRES ACT 1997

PURSUANT to section 82 of the Rural Fires Act 1997 as amended, the Commissioner of the NSW Rural Fire Service, following consultation with the local stakeholders, declares the following Local Bush Fire Danger Period Variation:

Area of Variation: Muswellbrook Shire Council
Singleton Shire Council

The Local Bush Fire Danger period has been extended for the period 1 September until 30 September 2005.

During this period permits pursuant to section 87 of the Rural Fires Act 1997 as amended will be required for the lighting of fire for the the purposes of land clearance or fire breaks.

MARK CROSWELLER, AFSM,
Assistant Commissioner
Executive Director Operations
and Regional Management
Delegate

SUBORDINATE LEGISLATION ACT 1989

Department of Environment and Conservation

Protection of the Environment Operations (Waste)
Regulation 2005

IN accordance with the Subordinate Legislation Act 1989, notice is given of the making of the abovementioned Regulation.

The regulation replaces the Protection of the Environment Operations (Waste) Regulation 1996 which will be repealed on 1 September 2005.

The new regulation aims to simplify and clarify the regulation of waste and provide an appropriate level of environment protection in the management of wastes. It continues the provisions of the 1996 regulation until March 2006 and introduces changes for waste tracking, the waste levy contribution payable by scheduled waste facilities, and the general requirements for waste storage and transport. The new provisions will not take effect until after a period of public consultation.

A regulatory impact statement has been prepared on the new regulation. Copies may be downloaded from www.environment.nsw.gov.au/consult or ordered from Environment Line on 131 555.

Comments and submissions on the Regulation are invited and should be forwarded to:

Manager, Waste Management Section
Department of Environment and Conservation
PO Box A290
Sydney South NSW 1232
Email: info@environment.nsw.gov.au under the title 'POEO (Waste) Regulation 2005'.

The final date for receipt of submissions is Friday 7 October 2005.

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare be this order the

Sydney Rockclimbing Club Inc

to be a sporting organisation, for the purposes of the provisions of the Act, in respect of the activity of Rockclimbing.

Sydney, 8 July 2005

IAN EATHER,
A/Chairperson

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare be this order the

Macquarie University Sport and Recreation Inc.

to be a sporting organisation, for the purposes of the provisions of the Act, in respect of the activities of Australian Rules, Aikido Ki, Athletics (Track and Field), Badminton, Baseball, Basketball, Boardsailing, Bushwalking, Canoe/Water Polo, Chinese Martial Arts, Cricket, Cycling, Fencing, Frisbee, Golf, Hockey, Judo, Karate, Kendo Kumdo, Kickboxing, Macquans, Netball, Real Tennis, Rowing, Rugby League, Rugby Union, Sailing, Scuba Diving, Snow Skiing, Soccer, Softball, Squash, Table Tennis, Tae Kwon Do, Tennis, Touch Football, Triathlon, Volleyball, Waterpolo and Waterskiing.

Sydney, 3 August 2005

ROB THOMSON,
Chairperson

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare be this order the

Rams Baseball Club

to be a sporting organisation, for the purposes of the provisions of the Act, in respect of the activity of Baseball.

Sydney, 3 June 2005

IAN EATHER,
A/Chairperson

SPORTING INJURIES INSURANCE ACT 1978

Sporting Injuries Committee

Order of Declaration under Section 5

IN pursuance of section 5 of the Sporting Injuries Insurance Act 1978, I declare be this order the

Mingara Athletics Club

to be a sporting organisation, for the purposes of the provisions of the Act, in respect of the activity of Athletics (Track and Field).

Sydney, 24 June 2005

IAN EATHER,
A/Chairperson

SUPREME COURT RULES 1970

PRACTICE NOTE SC CL 2

Supreme Court Common Law Division – Criminal Proceedings

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to committals for trial or sentence and ex-officio indictments in the Criminal List of the Common Law Division.

Definitions

3. None applicable.

Introduction

4. The purpose of this Practice Note is:

- to ensure that criminal proceedings are dealt with in a timely way; and
- to assist an accused person to take advantage of legislation which provides for a discount in sentence where an early plea of guilty is entered.

Listing for arraignment

5. Arraignments are held on the first Friday of each month in Sydney.
6. When committing an accused person for trial or sentence to the Supreme Court, the magistrate will direct the person to appear at the next arraignment, not less than 4 weeks after the date of the committal. If this practice would result in a January date, the matter will be listed on the first Friday in February.
7. Ex-officio criminal prosecutions will be listed by the registry in the same way.

Arraignment procedures

8. On the day fixed for the arraignment, the Director of Public Prosecutions shall present an indictment to the Court and shall provide copies of the indictment for each accused person.

9. The court expects matters to be ready to proceed at the first arraignment so that a trial date can be given. Legal representatives are expected to identify the issues for trial and estimate the likely hearing time required. The arraignment judge may give directions and rulings as to the conduct of the trial.

Entering a plea

10. Upon presentment of the indictment, the accused person will be arraigned by the Court and shall enter his or her plea. The Court may, if the indictment is not presented on the day fixed for the arraignment of the accused person, fix a further date for the arraignment of the accused and the presentment of the indictment.

Trial

11. By the date set for the trial, the matter must be ready to proceed. If there is an unavoidable problem or change to the conduct or length of the trial, legal practitioners are to notify the criminal registry or the criminal list judge at the earliest possible stage to avoid inconvenience to jurors and witnesses.

Direction under s.128 of the Criminal Procedure Act 1986

12. Prosecuting authorities are directed to present all indictments in the District Court, rather than in the Supreme Court, except for indictments relating to offences under any of the following sections:
- sections 12, 19A, 21, 22A and 24 of the Crimes Act 1900;
 - sections 24, 24AA, 24AB and 78 of the Crimes Act 1914 of the Commonwealth;
 - section 9 of the War Crimes Act 1945 of the Commonwealth;
 - section 7 of the Geneva Conventions Act 1957 of the Commonwealth;
 - section 8 of the Crimes (Internationally Protected Persons) Act 1976 of the Commonwealth;
 - offences for which the maximum penalty is life imprisonment in a case in which either the Director of Public Prosecutions (Commonwealth) or the Director of Public Prosecutions of New South Wales has formed the opinion that the imposition of a life sentence may be appropriate.
13. It will be noted that, by reason of clause 22 of the Criminal Procedure Regulation 2005, the District Court currently does not have jurisdiction in respect of sections 12 and 19A of the Crimes Act 1900.
14. Subject to the usual practice as to joinder of counts, an indictment charging an offence under any of the above sections may also contain counts charging other offences.
15. Applications for exemption under section 128(2) of the Criminal Procedure Act 1986 should be made by letter addressed to the Chief Justice setting out a brief description of the nature of the case and identifying the basis upon which it is claimed that it is an appropriate case to be tried in the Supreme Court. Matters that involve particular difficulty, or that are test cases or in which there is particular public significance, will ordinarily be given an exemption.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CL 2 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note Nos. 57, 98 & 112 on 17 August 2005.

PRACTICE NOTE SC EQ 4

Supreme Court Equity Division – Corporations List

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to new and existing proceedings in, or to be entered in, the Corporations List in the Equity Division.

Definitions

3. In this Practice Note:

Act means the Corporations Act 2001 (Cth)

Corporations matters means proceedings and interlocutory applications that arise out of the Act or the Rules, or seek relief thereunder

CPA means the Civil Procedure Act 2005

Rules means the Supreme Court (Corporations) Rules 1999

SCR means the Supreme Court Rules 1970

Introduction

4. The purpose of this Practice Note is to explain the operation of the Corporations List.

Case management in the Corporations List

5. Corporations Law matters are usually dealt with in the Corporations List. Matters relating to other incorporated bodies such as co-operatives and incorporated associations may also be dealt with in this List.
6. Corporations matters to be dealt with by a judge may be made returnable before the Corporations List Judge on any Monday during term. At the present time the judicial work of the Corporations List is shared principally by the judge in charge of the List along with a second judge designated for that purpose. They are assisted where necessary by the Equity Division judge assigned to the Probate List (also a Monday list) with further access to other judges in the Equity Division if need be. There is also a Friday list for special fixtures of one day or less. Matters may be placed in the Friday list by the judge presiding in the Monday list by the Duty Judge, or by an Associate Judge or Registrar.
7. A party who seeks an abridgment of service for originating or interlocutory process in a Corporations matter may approach the Corporations List judge directly on a Monday (but not Friday) during court hours, without notice. The Equity Division Duty Judge is able to deal with Corporations matters at times between Mondays, with facility to place the matter for further direction in the Monday list.
8. The parties should expect that if a matter has been placed in the Corporations List for a particular Monday, the hearing will ordinarily proceed on the appointed day. They should prepare accordingly. Where this would assist the Corporations List Judge, brief skeleton submissions should be sent in advance if practicable. Commercial

circumstances normally demand that Corporations matters be heard and resolved swiftly. While the demands of the List cannot be fully anticipated, experience shows that short Corporations Law matters (of up to two hours hearing time) can usually be dealt with on the appointed day or may be allocated to a Friday list in the near future.

9. Longer Corporations Law matters are 'managed' within the Corporations List in preparation for hearing. Depending on the subject matter and the degree of urgency involved, and the availability of judges, the matter may be set down before one of the usual Corporations List judges for hearing or before another judge of the Equity Division. Otherwise the matter may be allocated as appropriate to the Expedition List, the Duty Judge List, the Short Matters List or the General List, drawing on the expertise of the whole Equity Division including judges assigned to the Commercial List. The Court has video conferencing facilities for Corporations matters involving interstate or overseas elements.
10. Routine insolvency proceedings and applications are dealt with by the Registrar. Examinations under Part 5.9 of the Act are heard before a Deputy Registrar. Available dates are posted on the Supreme Court website (www.lawlink.nsw.gov.au/sc).
11. Applications are listed before the Registrar each day, except Wednesday, at 11am in the Registrar's Corporations List. Orders sought include the winding up of corporations, the appointment of a receiver or provisional liquidator, the release of liquidator and dissolution of a corporation, and the determination of a liquidator's remuneration. Final orders for winding up a corporation, setting aside a winding up order or reinstating a corporation are prepared by the Registry and are sent out in the DX later on the day of hearing.
12. At the commencement of the list the Registrar deals with referrals to the Corporations List Judge, the Duty Judge or an Associate Judge. The Registrar may refer matters to the Corporations List Judge for case management. Matters are referred by the Registrar to the Corporations List Judge each Monday and on other days, except Wednesday, to the Duty Judge.
13. Certain short matters (such as applications to set aside statutory demands, where any cross-examination is generally curtailed) are usually referred to an Associate Judge. Referrals to the Associate Judge take place each day except Wednesday. The Associate Judge endeavours to determine the referrals on the day of referral. However, if the matter is estimated to take more than two days it is specially fixed for the earliest available date. Depending on the Associate Judge's workload, matters may be referred to the Corporations List Judge on the following Monday.
14. The powers of the Associate Judge and the Registrar are to be found in Schedule D the SCR and s 13 of the CPA respectively.

Appointment of liquidators by the Court

15. The following arrangements apply to the appointment of a liquidator:
 - The Registrar will continue to maintain a list of registered official liquidators who have consented in writing to accept all appointments as liquidator made by the Court. This list is sorted alphabetically by firm for liquidators located in metropolitan Sydney, and by individuals located in regional centres. -;
 - The plaintiff in winding-up proceedings may nominate for appointment a registered official liquidator whose name appears in the Court's list. A nomination is effected by filing with the originating process a consent in Form 8 of the Rules, signed by the nominee, certifying that he or she is not aware of any conflict of interest or duty and serving it in accordance with Rule 5.5(3)(b).
 - The Court will appoint the plaintiff's nominee in the normal case but is not obliged to do so. An obvious ground for the Court declining to appoint the plaintiff's nominee is that the Court considers there is an actual or potential conflict between the duties of a liquidator and the nominee's personal interest or some other duty (for example, a person who has acted as receiver and manager of the company for a secured creditor will almost never be appointed liquidator).
 - Unless the consent in proper form of a registered official liquidator whose name appears in the Court's list is filed with the originating process for winding up, the Registry will select a liquidator by rotation from the Court's list. The plaintiff must obtain the consent in proper form of the liquidator selected by the Court, and file and serve that consent in accordance with Rule 5.5(3).
 - If the liquidator declines to consent to the appointment (which the liquidator may do, after having given his or her consent to accept all court appointments, only on grounds such as conflict of interest), the plaintiff must:
 - nominate a registered official liquidator, whose name appears on the Court's list, by filing and serving the liquidator's consent in accordance with Rule 5.5(3); or
 - approach the Registry for selection of another liquidator by rotation, and then file and serve that liquidator's consent in accordance with Rule 5.5(3).

Disclosure by insolvency practitioners of fees to be charged

16. The Insolvency Practitioners Association of Australia no longer publishes a Scale of Rates in respect of fees.
17. Where application is made to the Court for an order that a company be wound up or for an official liquidator to be appointed as a provisional liquidator of a company, an official liquidator must consent in writing to be appointed: see the Act, subs 532(9) and the Rules, 6.1(1). The consent must be in accordance with Form 8 to the Rules: see r.5.5(2); 6.1(2). Form 8 requires disclosure of the hourly rates currently (as at the signing of the consent) charged in respect of work done as a liquidator or provisional liquidator (as the case may be) by the person signing the consent, and by that person's partners and employees who may perform work in the administration in question.
18. The provisions referred to in paragraph 17 have no application, however, to appointments of persons as external administrators:
 - otherwise than by the Court; or
 - by the Court otherwise than as liquidator or as liquidator provisionally.

19. Even in the case of appointments as liquidator or as liquidator provisionally, the provisions referred to in paragraph 17 above do not touch on changes in the hourly rates after the signing of the Form 8 consent.
20. Various provisions of the Act empower the Court, in certain circumstances, to determine or review the remuneration of insolvency practitioners when they are filling the office of various forms of external administrator: see ss 425; 449E; 473(2) (3), (5), (6); 504.
21. With the exception of Form 8, where it is applicable, the provisions referred to in paragraph 17 do not indicate a standard of disclosure of fees to be charged which the Court might regard as appropriate in any situation in which it may be relevant for the Court to take into account whether an insolvency practitioner has followed a practice of making adequate disclosure of such fees.
22. The guidelines in paragraphs 23 and 24 below are intended to fill that gap. These guidelines are not, however, intended to limit the judicial discretion available in any particular case, or to require that non-observance of the guidelines be taken into account where that would not be relevant to the exercise of a judicial discretion.
23. All external administrators (including persons appointed as liquidators or as liquidators provisionally) should, in their first report to creditors:
- disclose the hourly rates of fees which are being charged by them and by any of their partners and employees who may work in the administration; and
 - give their best estimate of the cost of the administration to completion or to a specified milestone identified in the report.
24. If, at any time after an external administrator has reported in accordance with paragraph 23, the hourly rates are to change, or the administrator has reason to believe that the estimate given to creditors is no longer reliable, he or she should report to creditors, disclosing the new hourly rates and giving a revised estimate.
25. These guidelines are not intended:
- to prevent an external administrator from changing hourly rates or revising estimates if he or she is otherwise lawfully permitted to do so; or
 - to authorise an external administrator to change hourly rates or revise estimates if he or she is not otherwise lawfully permitted to do so.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Eq 4 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note Nos. 117, 111 and 126 on 17 August 2005.

Practice Note SC Gen1 Supreme Court – Application of Practice Notes

Practice Note SC Gen3 Supreme Court – Use of technology

Practice Note SC Eq1 Supreme Court Equity Division – Case management

Corporations Act 2001 (Cth)

Supreme Court (Corporations) Rules 1999
Civil Procedure Act 2005
Supreme Court Rules 1970
Amendment History:

PRACTICE NOTE SC EQ 3

Supreme Court Equity Division – Commercial List and
Technology and Construction List

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to new and existing proceedings in, or to be entered in, the Commercial List or the Technology and Construction List in the Equity Division.

Definitions

3. In this Practice Note:
 - CPA means the Civil Procedure Act 2005,
 - UCPR means the Uniform Civil Procedure Rules 2005.
 - SCR means the Supreme Court Rules 1970.
 - Lists means the Commercial List or the Technology and Construction List.
 - List Judge means a judge of the Equity Division assigned to administer the Lists.
 - Tender bundle means a bundle of documents that a party intends to rely upon at the trial or hearing of an application.

Introduction

4. The purpose of this Practice Note is to set out the case management procedures employed in the Lists to the quick, cheap and just disposal of proceedings.
5. Practice Note SC Eq 1 shall not apply to proceedings in the Lists.
6. Parts 14 and 14A of the SCR remain in force (with certain amendments), but it is expected that this Practice Note will be observed by way of additional provision for the conduct of proceedings entered in either of the Lists.
7. party who considers that compliance with this Practice Note will not be possible, or will not be conducive to the just, quick and cheap disposal of the proceedings, may apply to be relieved from compliance on the basis that an alternative proposed regime will be more conducive to such disposal.

Pleadings and Entry in the Lists

8. A matter in the Lists shall be commenced in the general form of Summons prescribed under the Uniform Rules. There is to be filed with the Summons a List Statement, for the Commercial List a “Commercial List Statement” and for the Technology and Construction List a “Technology and Construction List Statement”, setting out, in summary form, in the form of Annexure 1:
 - the nature of the dispute;
 - the issues which the plaintiff believes are likely to arise,
 - the plaintiff's contentions;

- the questions (if any) the plaintiff considers are appropriate to be referred to a referee for inquiry and report; and
 - a statement as to whether the parties have attempted to mediate, whether the plaintiff is willing to proceed to mediation at an appropriate time.
9. The plaintiff's contentions should:
- avoid formality;
 - state the allegations the plaintiff makes with adequate particulars; and
 - identify the legal grounds for the relief claimed.
10. A defendant shall file and serve a List Response, in the Commercial List a "Commercial List Response" or in the Technology and Construction List a "Technology and Construction List Response", setting out, in summary form in the form of Annexure 1:
- the nature of the dispute;
 - the issues which the defendant believes are likely to arise
 - the defendant's response to the plaintiff's contentions including the legal grounds for opposition to the relief claimed in the Summons ;
 - the questions (if any) the defendant considers are appropriate to be referred to a referee for inquiry and report;and
 - a statement as to whether the parties have attempted to mediate, whether the defendant is willing to proceed to mediation at an appropriate time.
11. The defendant's contentions should:
- avoid formality;
 - admit or deny the allegations the plaintiff makes;
 - so far as they do not appear from (b), state the allegations the defendant makes including adequate particulars of those allegations; and
 - identify the legal grounds for opposition to the relief claimed in the Summons.
12. Any Cross Claim shall be made in the general form of Cross Summons prescribed under the Uniform Rules. There is to be filed and served with any Cross Summons a List Cross Claim Statement, in the Commercial List a "Commercial List Cross Claim Statement" or, in the Technology and Construction List a "Technology and Construction List Cross Claim Statement" setting out the matters listed in paragraphs 8 and 9 in the form of Annexure 1.
13. A Cross Defendant shall file and serve a List Cross Claim Response, in the Commercial List a "Commercial List Cross Claim Response" or, in the Technology and Construction List, a "Technology and Construction List Cross Claim Response" setting out the matters listed in paragraphs 10 and 11 in the form of Annexure 1.
14. At the time of service of any Cross Summons the cross claimant is to serve on the cross defendant copies of the Summons and any Cross Summons together with any relevant List Statement and List Response and any List Cross Claim Statement and List Cross Claim Response that have been served on the cross claimant.
15. Any party moving for an order for entry of any proceedings in either of the Lists shall move by Notice of Motion at the earliest possible time and shall file and serve with the Notice of Motion a relevant List Statement or List Response.
16. Any motion for an order for entry of proceedings in either of the Lists shall be made returnable before the List Judge on a Friday.
- Removal from the Lists**
17. Upon an order being made removing proceedings from either of the Lists and subject to paragraph 18, this Practice Note shall not apply to the proceedings from the making of that order.
18. The Court may direct that this Practice Note shall continue to apply to the proceedings to the extent stated in the direction.
19. The making of an order removing proceedings from either of the Lists shall not affect any orders made or directions given prior to such removal.
- Motions and Directions**
20. All proceedings in the Lists are case managed by the List Judge with the aim of ensuring a speedy resolution of the real issues between the parties. The Lists are administered in Court on Friday of each week. Motions are listed at 9.15 am and are called through for the purpose of ascertaining the length of the hearing and allocating a time for hearing on that or some other day. Directions in the Commercial List commence at 9.45am and directions in the Technology and Construction List commence at 12 noon. The times for the commencement of the Motions and Directions hearings may change and Practitioners should always check the daily court lists as published prior to attendance at Court on a Friday.
21. The Court's expectation of Practitioners appearing in the Lists includes that:
- careful review of the case will be made as early as practicable for the purpose of informing the Court of its suitability for mediation, for reference out of all or some of the issues, and/or for the use of a single expert or Court Appointed Expert;
 - agreement will be reached on a timetable for the preparation of matters for trial and/or reference and/or mediation and consent orders will be handed up during the directions hearing;
 - if there is slippage in an agreed timetable, further agreement will be reached without the need for the intervention of the Court; and
 - requests for Court intervention in relation to timetabling will only be sought rarely when, for good reason, agreement has proved to be impossible.
22. To facilitate the just, quick and cheap resolution of matters Consent Orders will be made by the List Judge in Chambers on days other than Friday by application in writing to the List Judge's Associate. When Consent Orders are to be made either in Chambers or in Court varying a timetable, it is imperative that those Orders include the vacation of any date for directions hearings or the hearing of Motions that the parties no longer wish to maintain. If the proceedings settle, it is necessary to have the List Judge make orders finalising the litigation, rather than filing Terms with the registry. Those orders may also be made by consent in Chambers.
23. The Lists close at 12 noon on Thursday. Any application to add a matter to the List or remove a matter from the

- List must be made prior to 12 noon on Thursday. Such applications are to be made in writing to the List Judge's Associate.
24. At the first and/or subsequent directions hearing orders will be made and directions given with a view to the just, quick and cheap disposal of the proceedings. The orders or directions may relate to:
- the filing of a Summons, List Statements, List Responses or other documents;
 - the filing of a Cross Summons, List Cross Claim Statements and Responses;
 - the filing of a statement of agreed issues and the result in the proceedings according to the determination of those issues;
 - the provision of any essential particulars;
 - the making of admissions, pursuant to a notice to admit facts or otherwise;
 - the appointment of a single expert or Court Appointed Expert and/or the delivery or exchange of experts' reports;
 - the holding of conferences of experts;
 - the filing of lists of documents either generally or with respect to specific matters;
 - the preparation of a Scott Schedule;
 - the provision of copies of documents;
 - the administration and answering of interrogatories either generally or with respect to specific matters;
 - the service and filing of affidavits or statements of evidence by a specified date or dates;
 - the reference to a referee for inquiry and report of the whole of the proceedings or any question arising therein;
 - the appointment of an expert as a Court expert and the giving to him or her of authority, directions and instructions; and
 - the obtaining of the assistance of any person specially qualified to advise on any matter arising in the proceedings.
25. Orders or directions relating to the provision of particulars, the filing of lists of documents and the administration of interrogatories will be made only upon demonstrated need being established.
26. With the exception of evidence in support of interlocutory applications, the former practice of filing evidence as case preparation occurs is to cease. Timetables for case preparation should include provision for the serving of evidence on the other parties but not filing it with the Court. Evidence to be relied upon at trial will only be filed with the Court at the time provided for in the Usual Order for Hearing.
27. Evidence to be relied upon in support of interlocutory applications is to be served on the other parties and filed with the Court. Timetables for preparation of such applications should include provision for that process.
- Orders for reference**
28. Consideration should be given throughout the course of proceedings to whether any questions are appropriate for referral to a referee for inquiry and report.
29. Where questions are appropriate to be referred to a referee for inquiry and report, the parties should:
- formulate the questions with precision; and
 - inform the Court of:
 - an agreed referee or, if no agreement can be reached, the referee each suggests;
 - the date on which the referee can commence the reference;
 - the expected duration of the reference; and
 - the anticipated date for delivery of the report.
30. An order made for reference to a referee for inquiry and report will normally be in the form of the usual order for reference set out in Annexure 2.
31. Consent orders for amendment to the matters referred to the Referee in the Schedule to the Usual Order for Reference may be filed with the List Judge's Associate in writing for the making of such order in Chambers. Any contested amendments are to be heard in the Motions List on Fridays.
- Representation**
32. Each party not appearing in person shall be represented at any directions hearing by a barrister or a solicitor familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.
33. Practitioners should have communicated prior to the directions hearing with a view to agreement on directions to propose to the Court and preparation of short minutes recording the directions.
- Urgent applications and liberty to apply**
34. As and from the commencement of the new term in 2006 a party seeking ex parte or urgent orders or directions prior to the commencement of proceedings or in the course of the proceedings should telephone the Commercial List Judge's Associate, who will advise the party of the Judge to whom application should be made.
35. Parties have general liberty to apply and may cause proceedings to be listed at a directions hearing prior to a specified future directions hearing. A party seeking to do so should make prior arrangement with, or give appropriate notice to, any other party, and should send a fax to the List Judge's Associate who will advise the date for listing.
- Listing for hearing**
36. Where the whole, or any part, of the proceedings are to be heard by the Court, a date for hearing may be fixed prior to completion of interlocutory steps.
37. Proceedings will be fixed for hearing during a directions hearing in the Lists on Friday at which time the Court should be provided with a realistic estimate of the hearing time required. Upon fixing a date for hearing the Court will normally direct that the usual order for hearing set out in Annexure 3 shall apply, with or without modification.
- Experts**
38. The use of a single expert or a Court Appointed expert is encouraged in suitable cases. The parties are to confer as early as practicable with a view to reaching agreement as to whether the use of such an expert is appropriate and, if agreed, the inclusion of such appointment should be

accommodated in the timetable for the preparation for hearing.

39. Where experts' reports have been or are to be served (whether pursuant to an order or direction of the Court or not) the Court will, unless otherwise persuaded, direct, upon such terms as it thinks fit, that the parties cause the experts or some of them to confer with a view to identification and a proper understanding of any points of difference between them and the reasons therefore and a narrowing of such points of difference. The Court may, at the same time or subsequently, direct that the parties and/or the experts prepare an agreed statement of the points of agreement, and of difference remaining, between experts following such conference and the reasons therefore (see Schedule 7 of the UCPR).

Costs

40. Unless otherwise ordered, a party in whose favour an order for costs is made may proceed to assessment of such costs forthwith.
41. The cost of unnecessary photocopying and assembly of documents is unacceptable. It is incumbent on the lawyers for the parties to carefully consider the documents necessary to be included in the tender bundle. Excessive documents may attract adverse costs orders.

Mediation

42. The parties should be aware of the provisions of Part 4 of the CPA and relevant parts of the UCPR relating to mediation.
43. It is expected that prior to the commencement of proceedings in the Lists, the parties will have considered referral of their disputes to mediation. It is also expected that the lawyers, or the litigant if not legally represented, will be in a position to advise the Court on the first return date of the Summons whether: (a) the parties have attempted mediation; and (b) their respective clients are willing to proceed to mediation at an appropriate time.
44. If a matter is referred to mediation by consent and/or by an order pursuant to the section 26 of the CPA, the parties are to ensure that the person(s) who is able to make a decision as to whether the matter settles is present personally or by authorised nominee(s) at the mediation.

Summary judgment

45. As a general rule applications to strike out or for summary judgment will not be entertained. Sometimes applications are appropriate, but Practitioners should expect strictness in declining to entertain such applications.

Use of technology

46. The use is encouraged, where appropriate, of technology permitting the taking of evidence in, or other conduct of, proceedings by video link or conference telephone and the management of documents and transcript. Practitioners should propose the use of such technology when appropriate, and the Court may give directions involving its use: for example, in major cases with a view to statements, documents and transcript being available to all concerned on a common data base.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Eq 3 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 100 on 17 August 2005.

Supreme Court Practice Note SC Gen 1 – Application of Practice Notes

Supreme Court Practice Note SC Gen 6 – Mediation

Supreme Court Practice Note SC Gen 7 – Use of technology

Supreme Court Practice Note SC Gen 12 – Joint conferences of expert witnesses

Civil Procedure Act 2005

Civil Procedure Rules 2005

Supreme Court Rules 1970

Amendment History:

Annexure 1

[List] Statement [Or] List Cross Claim Statement

[List] Response [Or] List Cross Claim Response

A Nature of Dispute

B Issues Likely to Arise

C Plaintiff's [Or Cross Claimant's] Contentions

[Or C Defendant's [Or Cross Defendant's] Responses to Contentions Which Should Include Reference to Any Relief Claimed in the Summons or Cross Summons That are Admitted, Not Admitted or Denied.

D. Questions Appropriate for Referral to a Referee

E. A Statement as to Whether the Parties have Attempted Mediation; Whether the Party is Willing to Proceed to Mediation at an Appropriate Time.

Annexure 2

Usual Order for Reference

1. Pursuant to Pt 20 rule 14 of the Civil Procedure Rules (the "CPR"), refer to [state name of referee] for enquiry and report the matter in the Schedule hereto.
2. Direct that (without affecting the powers of the Court as to costs) the parties, namely [state relevant parties], be jointly and severally liable to the referee for the fees payable to him.
3. Direct that the parties deliver to the referee forthwith a copy of this order together with a copy of Division 3 of Part 20 of the CPR.
4. Direct that:
 - (a) subject to paras (b) and (c) hereof the provisions of Pt 20 r 20 shall apply to the conduct of proceedings under the reference;
 - (b) the reference will commence on [date] unless otherwise ordered by the referee
 - (c) the referee consider and implement such manner of conducting proceedings under the reference as will, without undue formality or delay, enable a just determination to be made including, if the referee thinks fit:
 - (i) the making of inquiries by telephone;
 - (ii) site inspection;
 - (iii) inspection of plant and equipment; and
 - (iv) communication with experts retained on behalf of the party;

- (d) any evidence in chief before the referee shall, unless the referee otherwise permits, be by way of written statements signed by the maker of the statement;
 - (e) the referee submit the report to the Court in accordance with Pt 20 r 23 addressed to the Equity Division Registrar on or before [date].
5. Amendments to the Schedule, whether by agreement or on a contested basis, are to be the subject of an order made by the Court.
 6. If for any reason the Referee is unable to comply with the Order for delivery of the report to the Court by the date in this Usual Order for Reference, the Referee is to provide to the List Judge an Interim Report setting out the reasons for such inability and an application to extend the time within which to deliver the report to the Court to a date when the Referee will be able to provide the Report.
 7. Grant liberty to the referee or any party to seek directions with respect to any matter arising in proceedings under the reference upon application made on 24 hours' notice or such less notice ordered by the Court.
 8. Reserve costs of the proceedings.
 9. Stand the proceedings over for further directions on [date].

Schedule

The whole of the proceedings; or

The following questions arising in the proceedings, namely [state the questions].

Annexure 3

Usual Order for Hearing

Experts Reports

1. Where no directions have been given for the service of experts' reports, if any party intends to rely on the evidence of an expert witness:
 - (a) if the party has not already done so, the party shall serve a copy of the report of the expert on each other party no later than 28 days before the date fixed for hearing;
 - (b) the party shall serve a copy of the report of any expert responsive to a report delivered in accordance with subparagraph (a) no later than 14 days before the date fixed for hearing;
 - (c) at least 14 days before the date fixed for hearing (or in the case of a report referred to in subparagraph (b) at least 7 days before the date fixed for hearing) each party shall, by notice in writing to each other party, state whether the party proposes to object to the whole or any part of any report and the ground for the objection;
 - (d) the Court may, on such terms as it thinks fit, direct that the report served or part of it, stand as the evidence in chief of the witness or as part of such evidence;
 - (e) if the report is not tendered by the party who served it and the expert is not called as a witness, no other party may put the report in evidence without the leave of the Court;
 - (f) if an expert is called as a witness, the party calling the expert may not lead evidence from the expert the substance of which is not included in a report already served in accordance with this paragraph, without the leave of the Court;
- (g) whether or not the report or any part of it is used in evidence by the party calling the expert, if the expert is called as a witness, any other party may use the report or any part of it in cross examination of the expert unless the Court otherwise orders; and
- (h) nothing in this order shall otherwise deprive any party of any proper objection to the admissibility of evidence.

Affidavits and Statements

2. Where no directions have been given for the service of affidavits or statements of evidence, each party shall, not less than 28 days before the date fixed for hearing, serve on each other party a statement of the evidence proposed to be led from each witness to be called by that party, signed by the proposed witness, unless the Court otherwise orders.
3. Where directions have been given for the service of affidavits or statements of evidence, or where paragraph 2 of this order applies:
 - (a) a party who fails to comply with an order made for the service of affidavits or statements of evidence, or with paragraph 2 of this order, may not adduce evidence to which the order, or paragraph 2 of this order, applies without the leave of the Court;
 - (b) at least 14 days before the date fixed for hearing each party shall, by notice in writing to each other party, state whether he or she proposes to object to the whole or any part of any affidavit or statement of evidence and the grounds for the objections;
 - (c) the Court may, on such terms as it thinks fit, direct that the statement of evidence served, or part of it, stand as the evidence in chief of the witness, or as part of such evidence;
 - (d) if the affidavit is not read or the maker of the statement of evidence is not called as a witness, no other party may put the affidavit or statement in evidence without the leave of the Court;
 - (e) if the affidavit is read or the maker of the statement of evidence called as a witness, then save in relation to new matters which have arisen in the course of the trial, the party serving the affidavit or statement may not lead evidence from the deponent or the maker of the statement of evidence (as the case may be), the substance of which is not included in the affidavit or statement of evidence served without the leave of the Court;
 - (f) whether or not the affidavit or statement of evidence or any part of it is used in evidence by the party calling the witness, if the deponent or the maker of the statement of evidence is called as a witness any other party may use the affidavit or statement of evidence or any part of it in cross-examination of the witness unless the Court otherwise orders;
 - (g) nothing in this order shall otherwise deprive any party of any proper objection to the admissibility of evidence.

Documents – Tender Bundle

4. (1) At least 14 days before the date fixed for hearing each party shall, by notice in writing to each other party, specify what documents it proposes to tender

- at the hearing and, in the event that there has not been inspection, where the documents may be inspected.
- (2) Within 7 working days thereafter, each party shall advise each other party in writing:
 - (i) which of the specified documents may be tendered by consent;
 - (ii) whether the authenticity of any of the remaining documents, and if so which, is disputed; and
 - (iii) in so far as any document may not be tendered by consent, the grounds for the objection to its tender.
 - (3) Each party other than the plaintiff shall, not later than 5.00 pm on the fourth last working day prior to the date fixed for hearing, deliver to the plaintiff 2 copies of all documents intended to be tendered by such party at the hearing which have not been specified in the plaintiff's notice referred to in subpara (1).
5. (1) If any party intends to tender an original document that party shall, at least 7 days before the date fixed for hearing, give notice of that intention to all other parties.
 - (2) If any party requires another party to tender an original document that party shall at the time of advising in accordance with subpara 3(b) give notice of that requirement to the other party.
 - (3) The party in possession of any document the subject of a notice in accordance with subpara (1) or (2) shall make the document available for inspection prior to the date of hearing at the chambers of the barrister or office of the solicitor for that party giving the notice.
6. Where an order has been made for the filing of lists of documents:
 - (a) until the conclusion of the hearing each party shall be under a continuing obligation to disclose any document relevant to any matter in issue with respect to the matters specified in the original order;
 - (b) in the event that a party becomes aware that documents which have been in its possession have not been included in its list of documents, whether by reason of oversight or otherwise, that party shall forthwith include, and clearly identify, particulars of those additional documents in a supplementary list and file and serve an affidavit specifying the reason for the failure to disclose the documents in the original list;
 - (c) at least 7 working days before the date fixed for hearing, each party shall file and serve a supplementary list of the documents (if any) with respect to the matters specified in the original order which have come into its possession since the time of serving its list of documents, but excluding copies of documents received pursuant to discovery from any other party and copies of subpoenaed documents to which all parties have been granted access, and shall give supplementary inspection.
- Filing with the Court**
7. No later than 4.30pm, three working days before the hearing:
 - all parties' barristers or solicitors shall cause to be filed with the Court a folder of all affidavits, statements and reports to be relied upon at trial with an index setting out in alphabetical order (a) the name of the deponent or maker of the statement or report; (b) the date of the affidavit, statement or report; and (c) a short statement identifying the role of the deponent or the maker of the statement or report.
 8. No later than 12 noon on the last working day before the hearing:
 - 8.1 The plaintiff shall file, paginated and indexed, two copies of the bundle of the documents intended to be tendered at the hearing by any party. The index of documents should indicate documents the tender of which is agreed and, in relation to the documents as to which there is no agreement, which documents they are and whether lodged on behalf of the plaintiff or on behalf of any other party to the proceedings and, if so, which party.
 9. No later than 4.30pm, on the last working day before the hearing:
 - 9.1 Each barrister or solicitor shall cause to be filed and served an outline of submissions of contentions of fact and law and issues for trial submissions; a list of authorities; a chronology of relevant events; and, where the number of persons who feature warrants it, a list of relevant characters;
 10. Compliance with orders 7 to 9 is to be by delivery to the trial Judge's Associate or, if the identity of the trial Judge is unknown at the time for compliance, by delivery to the List Judge's Associate.
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- PRACTICE NOTE SC EQ 2**
- Supreme Court Equity Division – Admiralty List
- Commencement**
1. This Practice Note commences on 17 August 2005.
- Application**
2. This Practice Note applies to proceedings in, or to be entered in, the Admiralty List in the Equity Division of the Supreme Court.
- Definitions**
3. In this Practice Note:
 - Act means the Admiralty Act 1988 (Cth)
 - List means the Admiralty List
 - List Judge means the judge of the Equity Division assigned to administer the Admiralty List
 - Rules means the Admiralty Rules 1988 (Cth)
 - SCR means the Supreme Court Rules 1970
- Introduction**
4. The Purpose of this Practice Note is to explain the operation of the Admiralty List.
- Assignment of business and entry in the Admiralty List**
5. The Court will assign proceedings to the Equity Division and enter them in the List according to the:
 - the jurisdiction with which it is invested by the Admiralty Act 1988 of the Commonwealth; or
 - under the Shipping Registration Act 1981 (Cth) or the Navigation Act 1912 (Cth).

Entry in the List on commencement of proceedings

6. Where a plaintiff, on his or her Summons or Statement of Claim filed in the Equity Division, adds "Admiralty List" next under the heading and title, the proceedings shall be entered in the List without any order for entry.
7. A document filed in the Court in the List must be entitled as required in Form 1 of the Rules and must otherwise comply with the forms prescribed by the SCR.
8. All matters in the List are case managed from commencement by the List Judge. A plaintiff commencing proceedings in the List should contact the Associate to the List Judge prior to filing the initiating process to request a date for the proceedings to be listed for directions. That date will then be inserted as the return date in the Statement of Claim or Summons upon filing in the Registry.

Entry into and removal from the List

9. The Court may, on the application of a party or of its own motion, if it is satisfied that it is proper to do so, order that proceedings be entered into or removed from the List and may give such further directions as to the continuance of the proceedings as it thinks fit.

Directions and applications

10. Directions hearings and applications by Notice of Motion are heard by the List Judge at 9.30am on Thursday.
11. Representatives of parties attending directions hearings are expected to be sufficiently informed of the nature of the case and its current position to enable the List Judge to deal with the matter expeditiously and with minimum expense to the parties.
12. Directions for timetables and other orders or directions which have been agreed between the parties may be made without the parties' attendance in Court by sending to the Associate to the List Judge by facsimile Short Minutes of Order signed by the legal representatives of all parties.
13. A party may at any time, and notwithstanding any earlier direction, arrange for a matter to be listed for directions by contacting the Associate to the List Judge.
14. A party wishing to make an urgent application during business hours should contact the Associate to the List Judge to arrange a time for the matter to be listed.
15. A party wishing to make an urgent application outside normal business hours may apply to the List Judge by telephoning the List Judge's Associate in the first instance, or the Security desk on 9230 8025.

Hearings

16. Admiralty matters will be fixed for hearing only by the List Judge and, in so far as is possible, will be given priority in the Court's calendar.
17. Parties should be prepared to take an early date for a final hearing and will be encouraged to streamline the issues for trial.

Registrar and Marshal

18. The officer of the Court authorised to be Registrar for the purposes of Rule 4(1) of the Rules is the Registrar in Equity.
19. The Chief Justice appoints an appropriate officer of the Court to the position of Marshal. The contact details for

the current Marshal are available from the Court's website (www.lawlink.nsw.gov.au/sc).

Insurance of property arrested under the Admiralty Act 1988

20. The I Act provides for the arrest of property (including vessels) by the Marshal in actions in rem. The Marshal does not at any time during the period of arrest hold commercial insurance for the benefit of any person who has an interest in arrested property.
21. Persons with an interest in arrested property and their solicitors may wish to consider the question of insuring the amount of their interest against consequential risks, including risks occasioned by any movement of a vessel.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Eq 2 was commenced and issued on 17 August 2005.

This Practice Note replaced Practice Note No. 84 on 17 August 2005.

See also:

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Admiralty Act 1988 (Cth)

Supreme Court Rules 1970

Admiralty Rules 1988 (Cth)

SUPREME COURT PRACTICE NOTE SC EQ 1

Supreme Court Equity Division – Case Management

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to new and existing proceedings filed in the Equity Division with the exception of those matters assigned to the Division's specialist lists.

Definitions

3. In this Practice Note:

CPA means the Civil Procedure Act 2005

E judge means a judge assigned to manage the Expedition List

Specialist lists means the Admiralty List, Adoptions List, Commercial List, Corporations List, Probate List, Protective List and the Technology and Construction List

Introduction

4. The purpose of this Practice Note is to set out the case management procedures applied in the Equity Division.
5. This Practice Note does not aim to override the specific practice directions governing the operation of the Division's specialist lists.

Lists generally

6. Not including specialist lists, the following lists are maintained in the Equity Division for matters to be heard in the Division:

- Duty Judge List (see paragraph 17 below)
 - Expedition List (see paragraph 25 below)
 - General List (see paragraph 38 below)
 - Long Matters List (see paragraph 43 below)
 - Short Matters List (see paragraph 46 below)
 - Associate Judges' List (see paragraph 50 below)
 - Registrar's Lists (see paragraph 59 below)
7. The Court relies on legal practitioners giving accurate estimates of hearing times. Wilfully misstating the length of a trial will be considered a serious matter.
 8. The Court expects each direction to be faithfully obeyed. Should circumstances arise where this cannot be done, the court must be informed as soon as practicable.
 9. No case will be stood over generally. In all cases, except final disposals, draft orders must contain a definite date to which the proceedings are next to be considered by the Court.
 10. Practitioners must arrive at the courtroom at least three minutes before the relevant list commences and record their names on the attendance sheet before the list commences.
 11. The Court's procedures are tuned to avoid applications for adjournment. Thus, before a date is taken, legal practitioners are expected to have considered the pleadings and the evidence and have satisfied themselves that no amendments are required and that all witnesses and documents are available and that they are in a position to give a genuine and accurate estimate of the length of hearing.
 12. In the rare case where an adjournment is sought, the application is to be made on notice to all other parties either to the trial judge, or if that is not practicable, to the Duty Judge.
 13. Subpoenas are to be made returnable before the Deputy Registrar in the 9am list. In particular, the practice of making subpoenas returnable at the first day of hearing is to be avoided as this usually causes delays while documents are examined. No subpoena should be made returnable in the Registrar's 9:30 list unless the matter is to be heard that day.
 14. Unless directions are made to the contrary, the Judge or other judicial officer may read all written material including affidavits prior to the hearing (subject to all just objections).
 15. Unless directions are otherwise made, before any trial of any matter other than Duty Judge matters, at least three working days before the hearing each party will provide to the Judge's Associate and to all other parties:
 - A full list of affidavits to be read;
 - A list of objections to opponent's affidavits; and
 - A list of persons to be cross-examined (NB, it is assumed that all such witnesses will already have been informed of this requirement).
 16. Unless directions are otherwise made, all exhibits and all agreed bundles of documents are to be delivered to the trial judge's Associate at least three working days before the hearing.

Duty Judge List

17. The prime function of the Duty Judge is to hear urgent applications.
18. Judges of the Equity Division are ordinarily rostered as Duty Judge for a two-week period. Legal representatives and parties should consult the daily court list to determine the current Duty Judge.
19. The Duty Judge will ordinarily sit in court from 9:30, 9:50 or 10am until 4pm.
20. The Judge will hear very urgent applications outside those hours, ordinarily in court. Counsel should contact the Associate in the first instance, or Security on 9230 8025. The Security Officer will contact the Judge and arrange a time for the application to be heard.
21. The Duty Judge's Associate should be contacted as soon as it is realised that an application is to be made. The Associate will monitor arrangements for the hearing.
22. While no truly urgent matter in the duty list will be left unheard at least to some minimal extent, normally it is inappropriate for any matter before the Duty Judge to take more than two hours. However, the Duty Judge hears all matters out at least to the stage of considering what interim relief should be given if they are so urgent that such action is required.
23. As a general rule, no matter is "not reached" in the Duty Judge List. Thus all practitioners must expect that there will be at least a limited hearing of every matter that is not resolved on an interim basis between the parties.
24. Solicitors should be armed with the filing fee (remembering the increase of fees that apply after 5:00 pm) plus minutes of the proposed orders.

Expedition List

25. All applications for expedition and all expedited cases are heard by the one or two Judges assigned exclusively to the Expedition List each year, save that some cases will be heard by judges who have had settlements.
26. One of the E Judges will sit each Friday to hear applications for expedition.
27. Applications for expedition must be made by Notice of Motion accompanied by one affidavit of grounds.
28. As the E Judge normally will read all material on the preceding Wednesday or Thursday, it is imperative that all material to be relied on be filed or delivered to the E Judge's Chambers no later than the preceding Tuesday.
29. It is expected that applications will be made as early as possible. However, the Court does not expect that the application should be made until after the real issues between the parties have been clarified.
30. There will no longer be any requirement that a case be ready for trial before an application is granted. However, ordinarily the case must be in such a state that a reliable estimate of its length can be made.
31. It will be necessary to make out a substantial case for expedition. The degree of proof of urgency will depend upon the competing candidates for the limited time available.
32. The progress of all cases expedited will be subject to directions by the Judge who will hear the trial. Directions

will be given for purposes which include confining the issues to those really in dispute. There must be strict compliance with directions given. Non-compliance may lead to vacation of the hearing date.

33. Although endeavours will be made to set a date that suits the legal representatives, this will not always be possible and the parties must be prepared to accept whatever hearing date is allocated.
34. Once a hearing date is allocated, it is usually not possible to change it.
35. If an expedited case is adjourned, a fresh application for expedition must normally be made. The Court's general rule is that second applications are not looked on favourably.
36. The Duty Judge does not hear applications for expedition. However, a Duty Judge may see fit to deal with an application for an early final hearing associated with a claim for interlocutory relief listed before the Duty Judge.
37. Applications for urgent hearings of matters normally heard by the Associate Justices such as applications under the Family Provision Act must be made to an Associate Judge and not to the E Judge.

General List

38. When the Registrar directs that a case is ready to be entered into the General List, a case will be entered in the General List.
39. Cases in the General List estimated to take six days or less will be listed in the call-over next following their entry into the General List unless the list already contains over 100 matters ahead of it.
40. Call-overs will normally be held before the Registrar on the second Wednesday of March, June, September and November.
41. The Registrar will allot a date for provisional hearing of the case as well as fix a time for pre-trial conference, ordinarily before the trial judge, normally at 9:30am.
42. Cases likely to take more than six days will be re-allocated to the Long Matters List.

Long Matters List

43. Where the Registrar becomes aware that a matter set down in the General list is estimated by any party to last more than 6 days, the Registrar shall relist the matter before a Registrar.
44. On such relisting hearing, the Registrar shall require each party to file within a specified time a synopsis of the matters of fact and law to be agitated at the hearing together with such other details as the Registrar considers necessary.
45. On receipt of such synopsis and other details, the Registrar shall transmit the file to one of the judges and thereafter that judge will conduct case management hearings and, in due time, fix the hearing date.

Short Matters List

46. If it is appropriate to fix a hearing date for a case and the Registrar is of the opinion that it is ready for hearing and that it will last one day or less, the Registrar shall place it on the Short Matters List, unless exceptional circumstances are shown.

47. The Short Matters List will be called over before the E Judge on the last Friday of each month immediately after the Expedition list.

48. The E Judge will need to be satisfied that the case will actually occupy only one day or less, and, if not satisfied, the matter will be placed in the next General List call-over.

49. Dates will be fixed so that the matter can be heard as soon as practicable.

Associate Judges' List

50. The Associate Judges sit for referrals on Fridays.
51. Matters referred to the Associate Judge will be called over by the Associate Judge at 10 am in the order in which they are referred. At the call-over, counsel should indicate the type of matter and the time estimate. They should not announce their appearance.
52. Matters in the Associate Judges' List will then generally be dealt with as follows:
 - "long" matters (matters with an estimate of one hour or more) will be allocated a hearing date often on a future Thursday, with directions being made as to the exchange and filing of written submissions (see paragraph 52 below);
 - matters by consent;
 - Family Provision Act matters;
 - hearing of "short" matters (matters with an estimate of less than one hour), which will generally be dealt order in which they were called over.
53. Where possible the Associate Judge will give "not before" markings to those parties appearing in "short" matters.

Directions for written submissions in "long" matters listed before an Associate Judge

54. Failure to file and serve submissions in accordance with directions to do so may result in a matter not being heard on the date on which it is fixed for hearing.

Standard directions in Family Provision Act matters listed for hearing before an Associate Judge

55. The Associate Judge directs each party to hand up to the Court at the commencement of the hearing:
 - a chronology setting out relevant dates in the matter
 - submissions dealing with the issues that are in dispute. These should briefly refer to any issue which is a substantial one in the proceedings. It can be assumed that one of the issues that each party must address is the way in which the plaintiff alleges that they have been left without adequate or proper provision for their maintenance, education and advancement in life. In each case the document should address precisely what is the failure to properly provide and set out briefly the order sought whether it be in terms of legacy or the provision of particular property. If the claim is by reference to a sufficient provision to purchase accommodation then there should be a reference to the evidence in respect to this matter.
56. As the amount of costs of the parties which invariably has an impact on the orders that may be made by the Court, the Court requires that:
 - the solicitor for each party shall in the week prior to the hearing file an affidavit setting out what the

party's costs will be from the commencement until the conclusion of the proceedings

- such affidavit be served on the solicitor's client and other party before the commencement of the hearing.

Proportionality of costs to result in Family Provision Proceedings

57. In accordance with ss 56 & 60 of the CPA, the Court does not require formal valuations of dwelling houses, home units, town houses or the like unless a Judge or an Associate Judge has otherwise directed.

58. The Court takes care that the costs of proceedings are proportionate to the result. Practitioners in cases where the estate is under \$500,000 should take particular care to minimise costs as it may be that costs of a successful claim will be capped.

Registrar's Lists

59. A Registrar usually sits as follows:

- a Deputy sits at 9am to deal with subpoenas Mondays to Thursdays;
- a Registrar sits to deal with general matters at 9:30am, Wednesday excepted; and
- a Registrar sits to deal with Corporation List matters at 11am, Wednesday excepted.

60. Because of the large number of matters in each Registrar's list, the Court expects that practitioners will endeavour to assist by conducting their matters as efficiently as possible. This will include:

- All order/directions by consent should be reduced to writing to be handed to the Registrar;
- Where the parties cannot agree on the orders to be made, competing versions should be written and handed to the Registrar;
- No one shall seek to mention a matter out of list order except to make a bona fide request that a matter be referred to the Duty Judge, the Corporations List Judge or an Associate Judge on that day.

Referrals in the Registrar's Lists

61. Referrals to the Duty Judge or to the Associate Judges' List are to be made at the commencement of the Registrar's List. No further referrals will be made after 9:40am.

62. An opposition to a referral should state precisely the basis of opposition. The person opposing should also provide the Registrar and the applicant for referral a written set of proposed orders and directions.

63. The following shall apply to referrals to an Associate Judge:

- All matters for referral to the Associate Judge (regardless of their estimated length), other than urgent matters are, only referred to the Associate Judge on Fridays;
- On any day other than a Friday, matters for referral to the Associate Judge are stood over to the Associate Judge's list for the following Friday. On the following Friday any matters in the Registrar's List on Friday can be referred to the Associate Judge;
- Failure to mention a matter for referral at the beginning of the list on a Friday may result in the matter not being referred to the Associate Judge that day;

- Urgent matters for referral to the Associate Judge (such as urgent applications for extensions of caveats) may be referred to the Duty Associate Judge on any day of the week. If the Duty Associate Judge cannot deal with the matter that day, it may be referred to the Duty Judge or another Judge.

Motions in the Registrar's Lists

64. The Registrar will attempt to deal with motions at the end of the list as time permits.

65. Motions exceeding one hour duration will need to be specially fixed. Practitioners appearing in such matters must have their list of available dates with them in Court.

66. On the hearing of the motion the applicant should:

- file submissions of no more than 2 pages in length in support of the motion at least three working days before the hearing and serve the same on all opposing parties;
- ensure that all material to be relied on is in the court file; and
- identify to the Registrar the source of the registrar's power to deal with the matter.

67. On the hearing of the motion the respondent should:

- file submissions of no more than two pages in length in opposition to the motion and serve the same on the applicant not later than noon on the day before the hearing; and
- ensure that all material to be relied upon is on the court file.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Eq 1 was commenced and issued on 17 August 2005.

See also:

Supreme Court Practice Note SC Gen 1 – Application of Practice Notes

Supreme Court Practice Note SC Gen 4 – Affidavits
Civil Procedure Act 2005

Family Provision Act 1982

Amendment History:

PRACTICE NOTE SC CL 7

Supreme Court Common Law Division – Professional
Negligence List

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to proceedings in, or to be entered in, the Professional Negligence List.

Definitions

3. In this Practice Note:

Expert witness means a person engaged by a party to give expert evidence in proceedings

List means the Professional Negligence List as provided by Part 14C of the Supreme Court Rules 1970

PNL means Professional Negligence List

SCR means the Supreme Court Rules 1970

Tender bundle means a bundle of documents that a party intends to rely on at the hearing

UCPR means the Uniform Civil Procedures Rules 2005

Introduction

4. The purpose of this Practice Note is to explain the operation of the List.
5. It is intended that proceedings in the Common Law Division that include a claim for medical or legal professional negligence, and other proceedings that the Court considers suitable, will be entered in the List.

Removal from the List

6. Upon an order being made removing proceedings from the List, this Practice Note shall, subject to paragraph 7 below, not apply to the proceedings from the making of the order.
7. The Court may direct that this Practice Note shall continue to apply to the proceedings to the extent stated in the direction.
8. The making of an order removing proceedings from the List shall not affect any orders made or directions given prior to such removal.

Appointing conference hearings

9. Proceedings in the List will be managed by way of conference hearings, the first of which will be appointed for approximately 3 months after proceedings are entered in the List.
10. Where proceedings are entered in the List under SCR Part 14C rule 3(2) (which relates to documents endorsed "Professional Negligence List"), the date of the first conference hearing will be given by the registry in a notice issued at the time of filing to be served by the filing party. Where entered pursuant to an order, parties with an address for service will be advised of the date by the registry.
11. At a conference hearing, proceedings may be listed at a specified future date for a further conference hearing.
12. Conference hearings are held every Wednesday before a Registrar.

Action prior to first conference hearing

13. A statement of claim should be served promptly so as to allow ample time for pre-conference preparation.
14. In proceedings being a claim for damages in respect of personal injuries, the provisions of UCPR Pt 15 Div 2 apply and must be complied with.
15. It is expected that the parties' solicitors will have discussed the case before the initial conference hearing and will have:
 - filed defences and cross claims;
 - held medical examinations;
 - narrowed issues;
 - agreed on suitable interlocutory orders, directions or arrangements;

- prepared a draft timetable for the future management of the proceedings; and
- prepared draft short minutes of any orders or directions to be sought at the conference hearing.

16. It should be noted that indemnity costs may be awarded in respect of work necessitated by an unreasonable failure to provide access to or copies of medical or hospital records before or after commencement of proceedings.

Action at conference hearings

17. At a conference hearing the Court may give directions or make orders as it considers appropriate with a view to the just, quick and cheap disposal of the proceedings. The orders or directions may relate to:
 - the provision of any further information;
 - the filing of other pleadings;
 - the provision of any essential particulars;
 - the making of admissions;
 - the filing of lists of documents;
 - the provision of copies of documents, including medical, hospital or legal records;
 - the administration and answering of interrogatories;
 - the service and filing of affidavits or statements of evidence;
 - an early separate trial on liability; and
 - proceedings to preserve evidence.
18. Orders or directions relating to the provision of particulars, the filing of lists of documents and the administration of interrogatories will be made only upon demonstrated need being established in respect of particular matters.
19. At the last conference conducted by a registrar before proceedings are referred to the Common Law call up pursuant to 27 below, it is to be anticipated that the registrar will make such of the orders set out in Schedule 2 hereto as have not previously been made in the proceedings.

Representation

20. Each party not appearing in person must be represented at any conference hearing by a barrister or a solicitor familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.

Mediation

21. At any conference hearing:
 - the Court may consider whether the proceedings are suitable for mediation and may direct the parties to confer upon this question;
 - if the matter appears to the Court to be appropriate for resolution by mediation, the Court will endeavour to secure the consent of the parties to a referral of the proceedings for mediation; and
 - if the parties consent to the referral, and agree as to who is to be the mediator, the Court may give directions to enable the parties to be prepared for the mediation.
22. Proceedings may be referred to mediation by the court with or without the consent of the parties if it considers the circumstances appropriate.

Applications

23. Applications may be made to the Registrar:
- orally at a conference hearing;
 - on notice returnable at a conference hearing; or
 - by letter to the registrar requesting that the proceedings be given a conference hearing and stipulating the reason, a copy of which is to be served in the same way as notice of a motion, and will not be included in the general applications list for the Division.
24. Applications may be made to the Professional Negligence List Judge by way of notice of motion supported by affidavit(s).
25. Unless the Court otherwise directs, any such motion is to be made returnable on the first Friday of the month next following the filing of the motion.
26. Urgent applications, and applications by consent, may be made at any time by arrangement with the Professional Negligence List Judge.

Listing for hearing

27. When ready for trial, proceedings will be referred to the Common Law call-up (notwithstanding that they will remain in the List) with no priority over other proceedings unless an order for expedition is made.
28. All applications for expedition should ordinarily be made to the registrar at a conference hearing, or by arrangement with the Professional Negligence List Judge.

Expert witnesses

29. Schedule 1 to this Practice Note applies whenever a party to proceedings in the List engages an expert witness.
30. The engaging party must, at the time of the engagement, provide the expert witness with a copy of Schedule 1.
31. This Practice Note does not limit the application of provisions relating to experts in the UCPR or in other Practice Notes.

Registrar

32. The Professional Negligence List Judge may arrange for the Registrar to carry out various functions in respect of the List.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CL 7 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 104 on 17 August 2005.

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Practice Note SC Gen 6 Supreme Court – Mediation

Practice Note SC Gen 10 Supreme Court – Single Expert Witnesses

Practice Note SC Gen 11 Supreme Court – Joint Conferences of Expert Witnesses

Supreme Court Rules 1970

Uniform Civil Procedures Rules 2005

Amendment history:

Schedule 1

1. In this Schedule a person engaged by a party with a view to giving expert evidence is referred to as an “expert witness”.
2. An expert witness’s paramount duty is to assist the court impartially. That duty overrides the expert witness’s obligation to the engaging party. An expert witness is not an advocate for a party.
3. A report made by an expert witness should (in the body of the report or in an annexure):
 - (a) include the person’s qualifications as an expert;
 - (b) specify the assumptions on which the opinions in the report are based (a letter of instructions may be annexed);
 - (c) specify any examinations, tests or other investigations on which he or she has relied; and
 - (d) specify any literature or other materials utilised in support of the opinions.
4. An expert witness should notify the engaging party of any change in the opinions in a report, and that party should then notify any other party who has been or is subsequently provided with the report accordingly.
5. (1) The court may direct the parties to request expert witnesses to:
 - (a) confer on a “without prejudice” basis;
 - (b) endeavour to agree; and
 - (c) make a joint statement in writing to the Court specifying matters agreed and matters not agreed together with the reasons for any such disagreement.
6. It is expected that an expert witness will exercise his or her independent, professional judgment in relation to such a conference and statement, and that an expert witness will not be instructed or requested to withhold or avoid agreement.

Schedule 2**Final Orders**

It is contemplated that, unless made earlier in the proceedings, these orders will be made at a final Professional Negligence List Conference prior to the matter being put into the call up list to obtain a hearing date.

By this date it is expected that:

1. Pleadings are closed.
2. Expert reports on liability and damages have been served.
3. Instructing letters, statements of assumptions or documents provided to the expert have been served with the expert’s report.
4. Any expert conference has taken place and any joint expert report has been filed.
5. A Part 15 Statement of Loss and Damage has been filed and served.
6. Interrogatories have been answered.
7. Any notices to admit facts or authenticity of documents have been served and responded to.
8. Any orders for trial of a separate issue have been obtained and any limited question for the trial judge has been agreed upon or ordered.

These draft orders contemplate the following practical realities:

1. The time between the last PNL conference and the call up to obtain a trial date will be short (a matter of weeks).
2. The time between the call up to obtain a trial date and the trial date will be long (4 to 8 months).
3. Counsel may not be briefed until after the call up.
4. A considerable amount of trial preparation takes place in the last two months before trial.
5. Supplementary experts' reports are often obtained after a trial date has been set.
6. Pleadings are often amended after the trial date has been set.

These draft orders are intended to:

1. Recognise the practical realities of trial preparation.
2. Focus the parties on the strengths and weaknesses of their case.
3. Permit a more informed appraisal of the case to facilitate earlier settlement discussions.
4. Provide an orderly division of labour between the parties in their trial preparation.
5. Assist the trial judge by having a uniform set of materials.

Final PNL Orders and Explanatory Notes

1. Evidence Act Notices

Any notices under the Evidence Act that require "reasonable notice" should be given not less than 2 months before the trial.

2. Audio-Visual Link Applications

If any party intends to call evidence by Audio-Visual Link s/he should inform the other party. If the other party consents, the relevant form should be completed not less than 2 months before the trial. If the other party does not consent, an application should be made to the List Judge no less than 2 months before the trial.

3. Witness Statements

The evidence of the parties and all witnesses of fact (but not expert witnesses) should be by affidavit and should be served by a fixed date. The exchange should be simultaneous for both parties at a fixed date no less than 2 months before the trial date.

4. Witness List

Each party should serve a list of proposed lay and expert witnesses to be called, the anticipated duration of their evidence and the order in which the witnesses are expected to give their evidence. This list should be served no less than 1 month before trial.

5. Supplementary Expert Reports

Any supplementary expert reports (ie from experts whose reports have already been served) should be served no less than 1 month before the trial date. This accommodates issues of fact that may arise from the witness statements.

6. Expert Literature

Where an expert intends to rely on literature to support his/her opinion, the party calling that expert should, if so requested by another party, provide copies of any such

literature (if available) or a list of any such literature (if it is not available) no later than 1 month before the trial date.

The literature should be limited to 5 relevant articles per expert. Literature does not replace expert opinion; it supports that opinion. The trial should not be used as a forum to examine the world literature on a topic; hence the recommendation to limit the number of articles which can be relied upon by one expert. Experts should be expected to be cross-examined on the literature relied upon.

7. Schedules of Loss and Damage

The plaintiff should provide a summary of the heads of damage. The defendant should respond to this document, noting agreement or disagreement on the heads of damage or the amount claimed. Where there is disagreement, the defendant should indicate the basis of the disagreement and state what amount, if any, it considers appropriate and why. Note that it is expected that the Part 15 statement will contain details of the plaintiff's claim. This Schedule is a summary only. The plaintiff's summary should be served no less than 2 months before the trial. The defendant's summary should be served no less than 1 month before the trial.

8. Plaintiff's Chronology

The plaintiff should prepare a chronology of material facts. There should be 3 columns:

- 1) DATE
- 2) DESCRIPTION
- 3) AGREED/DISPUTED

The third column should be left blank. The plaintiff's chronology should be served no less than 2 months before the trial.

9. Agreed Chronology

The defendant should complete the plaintiff's chronology noting in the 3rd column whether a fact is agreed to or is in dispute. This is now an agreed chronology and should be served no less than 1 month before trial.

10. Defendant's Statement of Facts and Issues in Dispute

The defendant should list the matters of fact and issues in dispute from the defendant's perspective. This should be served no less than 1 month before trial.

11. Plaintiff's List of Questions for the Trial Judge

The plaintiff should prepare a list of questions for the trial judge. This should include questions directed to any disputed issues of fact (derived from the defendant's chronology) and any other issues in dispute (derived from the defendant's statement of facts and issues in dispute).

The list of questions should include disputed issues of breach of duty, causation and damages.

The list of questions should be served no less than 2 weeks before trial.

12. Glossary of Technical Terms

The defendant should prepare a glossary of technical terms to be served no less than 2 weeks before the hearing.

13. Amendments to Pleadings

Any amendments to the pleadings should be made not less than 2 weeks before the hearing. It is anticipated that with all witness statements and expert reports served

any amendments would be to regularise the pleadings to accord with the evidence rather than to raise new allegations and defences.

14. Tender Bundles

The parties should agree on a list of documents to be included in their respective tender bundles. The objective is to not duplicate documents.

Agreed Tender Bundle

The Agreed Tender Bundle should include

- 1) the pleadings
- 2) Part 15 statement of damages particulars
- 3) plaintiff's schedule of loss and damage
- 4) defendant's schedule of loss and damage
- 5) agreed chronology
- 6) defendant's statement of facts and issues in dispute
- 7) plaintiff's questions for the trial judge
- 8) plaintiff's witness list
- 9) defendant's witness list
- 10) glossary of technical terms

The plaintiff should prepare one copy of the agreed tender bundle for the trial judge and one copy for each of the parties.

Individual Tender Bundles

Each of the parties should prepare their own bundle of documents which they intend to rely on at the trial. Each party should send the other an index for their individual tender bundle. The index should be served no less than 3 working days before the trial.

Each party should prepare a copy of their tender bundle for the trial judge.

The Individual Tender Bundle should include (but is not limited to) that party's

- 1) affidavits by lay witnesses
- 2) expert reports
- 3) instructing letters
- 4) expert literature
- 5) selected primary documents

15. Liberty to Apply

There should be a general order for liberty to apply. But if a party is in default of an order for more than 14 days (for matters to be done more than 1 month before the trial) or for more than 7 days (for matters to be done less than one month before the trial) the matter should be brought before the registrar or, if a judge has been appointed before that judge, for further directions.

PRACTICE NOTE SC CL 6

Supreme Court Common Law Division – Possession List

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to proceedings in, or to be entered in, the Possession List.

Definitions

3. In this Practice Note:

ADR means alternative dispute resolution

List means the Possession List

SCR means the Supreme Court Rules 1970

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

4. The purpose of this Practice Note is to explain the operation of the List which is provided for by Part 14B of the SCR.
5. Part 12 rule 1 and Schedule I of the SCR specify the types of matters that are entered in the List established under Part 14B of the SCR. Generally, these matters are any type of claim that include a claim for possession of land whether or not other types of claim are also included) irrespective of whether they should be entered in another list or in the Equity Division.

Removal from the list

6. Upon proceedings being removed from the List, this Practice Note shall not, subject to paragraph 7 below, apply to the proceedings from the making of the order.
7. The Court may direct that this Practice Note shall continue to apply to the proceedings to the extent stated in the direction.
8. The making of an order removing proceedings from the List shall not affect any orders made or directions given prior to such removal.

Directions hearings

9. Defended proceedings in the List will be managed by way of Directions Hearings, the first of which will be appointed upon a date approximately one month after proceedings are entered in the List.
10. Upon a defence or a cross-claim being filed, the registry will give notice to all parties with an address for service in the proceedings of the date of the first Directions Hearing.
11. Directions Hearings will be held daily before the Registrar at 9:00am.

Action prior to directions hearing

12. It is expected that, where practicable, the parties' solicitors will have discussed the case before the initial Directions Hearing and will have:
 - narrowed issues;
 - agreed on suitable interlocutory orders, directions or arrangements;
 - prepared a draft timetable for the future management of the proceedings;
 - prepared draft short minutes of any orders or directions to be sought at the Directions Hearing; and
 - discussed the possibility of settling the dispute by mediation or other ADR processes.

13. In this Practice Note ADR includes:

- mediation;
- arbitration; and
- referral to a referee under Part 20 of the UCPR.

Representation

14. Each party not appearing in person must be represented at the Directions Hearing by a barrister or a solicitor familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.

Action at directions hearing

15. At a Directions Hearing the Court may give directions and make orders as it considers appropriate with a view to the just, quick, cheap and effective management and disposal of the proceedings. Orders or directions may include:

- if the List is not the most appropriate place for the proceedings, the removal of the proceedings from the List, with consequential orders and directions;
- setting a timetable for case management;
- for the whole or any part of the evidence in the proceedings to be given on affidavit;
- for adjournment of the Directions Hearing;
- the filing of other pleadings;
- the provision of any particulars;
- the making of admissions;
- the filing of lists of documents;
- the provision of copies of documents;
- the administration and answering of interrogatories;
- the service and filing of affidavits or statements of evidence;
- orders for the preservation of evidence;
- hearing of applications for summary disposal under Part 13 of the UCPR or for judgment on admissions;
- applications under Part 14 or Part 15 of the UCPR which relate to pleadings and particulars;
- matters relating to proof; and
- the provision of any further information to the Court.

Alternative dispute resolution

16. At a Directions Hearing, the Court will consider whether the proceedings are suitable for ADR. Legal practitioners should ensure that instructions have been obtained prior to a Directions Hearing so that it may be indicated to the Court whether the matter can be mediated.

17. If the matter appears to the Court to be appropriate for resolution by mediation, the Court will refer the proceedings for mediation with or without the consent of the parties.

18. The Court may give directions requiring statements from parties including a timetable to enable parties to be prepared for mediation.

Joint statement

19. When ready for trial, proceedings will be referred to the Common Law call-up for a Hearing date to be allocated. At the Directions Hearing where matters are referred to call up, a standard direction that all parties are to complete, sign and file at least 7 days prior to the hearing date a clear, concise, joint statement of matters of fact and law that are really in dispute and nominating the evidence specifically relevant to those matters, is deemed to have been made, unless the Court otherwise orders.

Applications

20. Urgent applications to stay the execution of a writ of possession should be made to the Duty Registrar who is available from 9:00am to 5:00pm each weekday. Applicants should provide sufficient documentary evidence to enable the Duty Registrar to determine the application, such as:

- where the loan is to be refinanced – proof of steps undertaken to refinance;
- where the subject property is to be sold – copies of agent sale agreements, contract for sale of property, advertisements, etc.; and
- where the proceedings are to be defended – a draft Notice of Grounds of Defence.

21. A Duty Registrar considering an application made pursuant to paragraph 20 may order that the execution of a writ of possession be stayed for a short period, direct the applicant to file and serve a notice of motion seeking appropriate orders an affidavit in support of the applicant's motion, and may abridge time for service of any order and motion, and list the matter for a Directions Hearing.

22. Where a Duty Registrar refuses an application, the Duty Registrar may refer the proceedings to the Duty Associate Judge for consideration.

23. Applications, to which all relevant parties consent, may be dealt with at any time by arrangement with the Registrar.

24. Applications for summary disposal will be listed at a Directions Hearing for referral to the Duty Associate Judge for determination.

25. Applications to set aside default judgment will be heard by a Registrar.

Listing for hearing

26. When ready for trial, proceedings will be referred to the Common Law call-up (notwithstanding that they will remain in the List) with no priority over other proceedings unless an order for expedition is made.

27. All applications for expedition should ordinarily be made in the first instance to the Registrar.

Adjournment

28. To ensure efficient use of Court time, proceedings fixed for trial will not normally be adjourned unless special circumstances have arisen which could not have been foreseen.

29. An application for adjournment requires supporting affidavits.

30. An application for adjournment will not usually be granted unless the party on whose behalf the application is made is present at the time the application is made or has sworn an affidavit verifying that that party is aware of the reasons for the application and identifying those reasons.

Inactive proceedings

31. If a defence is not filed within 6 months of the claim being instituted, the Court may dismiss the proceedings on its own motion pursuant to UCPR 12.8.

32. The Court will give the plaintiff notice that the claim (or where appropriate, the proceedings) will be dismissed

unless, within a specified period, the plaintiff notifies the Court of its desire to show cause why an order for dismissal should not be made.

33. The Court may:

- if the plaintiff gives notice in accordance with paragraph 32, list the proceedings for further consideration by the registrar or the Possession List Judge; or
- otherwise dismiss the claim or the proceedings.

34. Paragraph 31 does not apply to proceedings, or to a claim, that have or has been disposed of by judgment, final order, discontinuance or dismissal.

Summary disposal

35. An application for summary disposal, made after proceedings are referred to the Common Law call-up, will be heard at the same time as the substantive proceedings, unless the Court otherwise orders.

Default judgment

36. Entry in the List will not affect a party's entitlement to enter default judgment.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CL 6 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 106 on 17 August 2005.

See also:

Practice Note SC CL 1 Supreme Court Common Law Division – General

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Practice Note SC Gen 6 Supreme Court – Mediation
Supreme Court Rules 1970

Uniform Civil Procedure Rules 2005

Amendment history:

PRACTICE NOTE SC GEN 1

Supreme Court – Application of Practice Notes

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to the Court of Appeal, the Court of Criminal Appeal, and to the Common Law Division and the Equity Division of the Supreme Court.

Definitions

3. In this, and any other Practice Note, unless the contrary is indicated:

Act means the Supreme Court Act 1970

CPA means the Civil Procedure Act 2005

Former Practice Notes means the Practice Notes issued by the Court prior to 17 August 2005

SCR means the Supreme Court Rules 1970

UCPR means the Uniform Civil Procedure Rules 2005

PN means Practice Note

Introduction

4. The purpose of this Practice Note is to:

- update Former Practice Notes to reflect current procedures in the Supreme Court, and
- update the Practice Notes with references to the CPA and UCPR.

Numbering of Practice Notes

5. All Practice Notes in the Supreme Court will begin with the letters "SC".

6. Practice Notes that relate specifically to a Court, a Division or a Divisional List will generally be numbered from the numeral 1 with an abbreviation for the Court or Division (i.e. "CA" for the Court of Appeal, "CCA" for the Court of Criminal Appeal, "CL" for the Common Law Division and "Eq" for the Equity Division). As a result, the first Practice Note for the Court of Appeal will be numbered SC CA 1.

7. This Practice Note operates as a Table of Contents, with status information as to the currency and history of all revised Practice Notes.

8. Practice Notes that relate to a general issue of the Court with application across one or more of the Courts or Divisions (e.g. mediation, access to Court files) will be numbered from the numeral 1 with the abbreviation "Gen". This Practice Note is therefore numbered SC Gen 1.

9. In future, where an amendment is made to a Practice Note, rather than issuing a fresh number to that Practice Note, a new version of the existing Practice Note will be issued.

10. The history of all new Practice Notes will be documented below in the "Related information" section of this Practice Note.

Repeal of Former Practice Notes.

11. Former Practice Notes numbered 1 to 130 are repealed.

General

12. Practice Notes numbered SC CA 1, SC CCA 1, SC CL 1 to SC CL 7, SC Eq 1 to SC Eq 4 and SC Gen 1 to SC Gen 11 replace the Former Practice Notes effective 17 August 2005.

Pending proceedings

13. Subject to paragraph 14, a Practice Note applies to proceedings commenced before the commencement of the Practice Note in the same way as they apply to proceedings commenced after the commencement of the Practice Note.

14. A court before which proceedings have been commenced before the commencement of a Practice Note may make such orders dispensing with the requirements of the Practice Note in relation to the proceedings, and such consequential orders (including orders as to costs), as are appropriate in the circumstances.

Transitional arrangements

15. Subject to the Act, the SCR, the CPA, and the UCPR, anything done under a provision of the Former Practice

Notes for which there is a corresponding provision in a current Practice Note is taken to have been done under the corresponding provision of the current Practice Note.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

The following Practice Notes apply from 15 August 2005:

| PN# | Title | Date commenced | Date Repealed (if applicable) | Comments |
|----------|--|----------------|-------------------------------|--|
| SC CA 1 | Court of Appeal – General | 17 Aug 2005 | | Repeals Former PNs 22, 42, 65, 74 & 77 |
| SC CCA 1 | Court of Criminal Appeal – General | 17 Aug 2005 | | Repeals Former PN 123 |
| SC CL 1 | Common Law Division – General | 17 Aug 2005 | | |
| SC CL 2 | Common Law Division – Criminal List | 17 Aug 2005 | | Repeals Former PNs 57, 98 & 112 |
| SC CL 3 | Common Law Division – Administrative Law List | 17 Aug 2005 | | Repeals Former PN 119 |
| SC CL 4 | Common Law Division – Defamation List | 17 Aug 2005 | | Repeals Former PNs 85 & 114 |
| SC CL 5 | Common Law Division – General Case Management List | 17 Aug 2005 | | Repeals Former PNs 120, 70 & 128 |
| SC CL 6 | Common Law Division – Possession List | 17 Aug 2005 | | Repeals Former PN 106 |
| SC CL 7 | Common Law Division – Professional Negligence List | 17 Aug 2005 | | Repeals Former PN 104 |
| SC Eq 1 | Equity Division – Case Management | 17 Aug 2005 | | |
| SC Eq 2 | Equity Division – Admiralty List | 17 Aug 2005 | | Repeals Former PN 84 |
| SC Eq 3 | Equity Division – Commercial List and Technology and Construction List | 17 Aug 2005 | | Repeals Former PN 100 |

| | | | | |
|-----------|---|-------------|--|-----------------------------------|
| SC Eq 4 | Equity Division – Corporation List | 17 Aug 2005 | | Repeals Former PNs 117, 111 & 126 |
| SC Gen 1 | Supreme Court – Application of Practice Notes | 17 Aug 2005 | | |
| SC Gen 2 | Supreme Court – Access to Court files | 17 Aug 2005 | | Repeals Former PN 97 |
| SC Gen 3 | Supreme Court – Photocopy access to documents produced under subpoena or admitted as exhibits | 17 Aug 2005 | | Repeals Former PN 107 |
| SC Gen 4 | Supreme Court – Affidavits | 17 Aug 2005 | | |
| SC Gen 5 | Supreme Court – Costs orders against practitioners | 17 Aug 2005 | | Repeals Former PN 108 |
| SC Gen 6 | Supreme Court – Mediation | 17 Aug 2005 | | Repeals Former PN 125 |
| SC Gen 7 | Supreme Court – Use of technology | 17 Aug 2005 | | Repeals Former PN 127 |
| SC Gen 8 | Supreme Court – Admission and enrolment under Mutual Recognition Act | 17 Aug 2005 | | Repeals Former PN 82 |
| SC Gen 9 | Supreme Court – Appointment of examiners outside of NSW: procedures for practitioners | 17 Aug 2005 | | |
| SC Gen 10 | Supreme Court – Single Expert Witnesses | 17 Aug 2005 | | |
| SC Gen 11 | Supreme Court – Joint Conferences of Expert Witnesses | 17 Aug 2005 | | Repeals Former PN 121 |

PRACTICE NOTE SC GEN 2

Supreme Court – Access to Court Files

Commencement

1. This Practice Note commences on 17 August 2005.

Application

2. This Practice Note applies to the Court of Appeal, the Court of Criminal Appeal, and each of the Divisions of the Supreme Court.

Definitions

3. In this Practice Note:

Tender bundle means a bundle of affidavits that a party intends to rely upon at a hearing (including an interlocutory hearing), whether previously filed or not

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

4. The purpose of this Practice Note is to prescribe the procedures surrounding the provision of access to court files.

Search

5. A person may not search in a registry for or inspect any document or thing in any proceedings except with the leave of the Court.

Access

6. Access to material in any proceedings is restricted to parties, except with the leave of the Court.

7. Access will normally be granted to non-parties in respect of:

- pleadings and judgments in proceedings that have been concluded, except in so far as an order has been made that they or portions of them be kept confidential;
- documents that record what was said or done in open court;
- material that was admitted into evidence; and
- information that would have been heard or seen by any person present in open court.

unless the Judge or registrar dealing with the application considers that the material or portions of it should be kept confidential. Access to other material will not be allowed unless a registrar or Judge is satisfied that exceptional circumstances exist.

8. Subject to paragraphs 10 and 11, 6 does not apply to a party to the proceedings or to the Registrar General or the Registrar of Births, Deaths and Marriages.

9. A party must not search in the registry for or inspect any document in relation to an application under section 9 of the Evidence and Procedure (New Zealand) Act 1994 of the Commonwealth except with the leave of the Court.

10. A party may not search in the registry for or inspect any document in any proceedings for orders under UCPR 1.9 (which relates to privilege from production) or UCPR 31.18 (which relates to experts' reports) or under UCPR 31.4 (which relates to witness statements) except with the leave of the Court.

11. Subject to paragraph 12, a person may not, except with the leave of the Court, inspect any order filed in the Court:

- made by:
- the Professional Standards Board under section 149, or
- the Disciplinary Tribunal under section 154 (1), of the Legal Profession Act 1987 as in force from time to time prior to 1 July 1994, or
- made by the Legal Services Tribunal under section 171C of the Legal Profession Act 1987.

12. Any person may inspect any order filed in the Court:

- made by the Disciplinary Tribunal under section 163 of the Legal Profession Act 1987 as in force from time to time prior to 1 July 1994, or
- made by the Legal Services Tribunal under section 171C of the Legal Profession Act 1987, if the order involves a finding of professional misconduct within the meaning of:
 - that Act, or
 - the Conveyancers Licensing Act 1995.

13. A person to whom any document or thing is produced by the Court for inspection may make copies of or take extracts from the document or thing.

14. It should not be assumed that material held by the Court comes within paragraph 7. Affidavits and witness statements that are filed in proceedings are often never read in open court. This can occur because they contain matter that is objected to and rejected on any one of a number of grounds or because the proceedings have settled before coming on for hearing. Affidavits, statements, exhibits and pleadings may contain matter that is scandalous, frivolous, vexatious, irrelevant or otherwise oppressive. UCPR 4.15 allows the Court to order this type of matter to be struck out of a document.

15. If access to material were to be given prior to the conclusion of the proceedings to which it relates, material that is ultimately not read in open court or admitted into evidence would be seen. Thus, access will not normally be allowed prior to the conclusion of the proceedings.

16. Even where material has been read in open court or is included in pleadings, there may be good reason for refusing access. Material that has been rejected or not used or struck out as being scandalous, frivolous, vexatious, irrelevant or otherwise oppressive, may still be legible. Where access to material would be otherwise unobjectionable, it may concern matters that are required to be kept confidential by statute (eg the Criminal Records Act 1991) or by public interest immunity considerations (eg applications to authorise listening devices, affidavits in support of suppression orders).

17. Application by a person, who is not a party to proceedings, for access to material held by the Court in the proceedings shall be made in the attached form to the registrar of the appropriate Division, who will refer doubtful cases to the Chief Justice or to a Judge nominated by the Chief Justice. The registrar or Judge may notify interested parties before dealing with the application. The applicant must demonstrate that access should be granted in respect of the particular documents the subject of the application and state why the applicant desires access. Enquires may be made to the Court's Public Information Officer.

18. The person to whom access to material is granted normally may copy or take extracts from the material and the registry may assist with copying.

APPLICATION BY A NON-PARTY FOR ACCESS TO MATERIAL HELD BY THE COURT

I (applicant's full name).....
 (occupation).....
 of (business address)
 (residential address)

apply for leave to inspect the documents described below in the following proceedings

Division or Court of Appeal or Court of Criminal Appeal

File No

Names of parties

Identify documents

My reason for requesting leave is

I submit that access to the documents should be granted because (state grounds)

Signature of applicant

Date of application

NOTE: Application must be made at least 1 day prior to inspection and in some cases a longer period will be required

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 2 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 97 on 17 August 2005.

See also:

Practice Note SC Gen1 Supreme Court – Application of Practice Notes

Practice Note SC Gen4 Supreme Court – Affidavits
Uniform Civil Procedure Rules 2005

PRACTICE NOTE SC GEN 3

Supreme Court – Photocopy access to documents
produced under Subpoena

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to the Court of Appeal, Court or Criminal Appeal, and the Common Law and Equity Divisions of the Supreme Court.

Definitions

3. In this Practice Note:

Approved firm means a firm approved by the Principal Registrar under this Practice Note or former Practice Note 107.

Produced documents means documents produced in answer to a subpoena, notice to produce, order to produce, or tendered as an exhibit in the proceedings.

Introduction

4. The purpose of this practice note is to facilitate access by parties to produced documents produced by providing a scheme for uplifting and photocopying produced documents by approved firms on behalf of a party who is granted access.

Uplifting and photocopying documents

5. Photocopy access can often be most conveniently achieved by permitting a party to uplift produced documents and return them upon completion of copying. In deciding whether to allow uplifting, the Court takes account of concerns about security of produced documents and the prospect that, while outside the Court's control, they may be lost, damaged, accessed by unauthorised persons or tampered with.
6. To meet those concerns without causing inconvenience, this practice note establishes a mechanism which enables produced documents to be securely uplifted and copied. It does so by:
 - providing for Court approval of suitable legal copying firms (approved firms); and
 - allowing approved firms to be appointed by parties to uplift and copy produced documents.

Procedure for use of approved firm

7. Where the Court orders that a party may have access to produced documents and that access may be available in accordance with this practice note, unless the Court otherwise orders, the order will be taken to:
 - authorise the solicitor representing the party to appoint an approved firm;
 - authorise the appointed approved firm to uplift the produced documents from the Registry (upon producing proof of appointment),
 - to make copies and to provide them to the party; and
 - require the firm to return the produced documents to the Registry within 2 working days of uplifting them.
8. Only a solicitor can appoint an approved firm. An approved firm may be appointed to act on behalf of more than one party.
9. Where a party is granted photocopy access but:
 - the party declines to use an approved firm; or
 - the Court declines to allow uplifting of produced documents,
 the party may also ask the Registry to copy the documents. A fee per page will be payable for this service.
10. Inspection of the original produced documents may only be undertaken at the registry. A party may not inspect the original produced documents whilst they in the possession of the approved firm except with approval by a registrar.

Approval of copier firms

11. The Chief Executive Officer and Principal Registrar may, on the Court's behalf:
 - issue a certificate of approval of a legal copier firm where satisfied that the firm has:
 - reliable systems for speedy, confidential and secure processing of documents entrusted to it; and
 - holds satisfactory insurance coverage, lodges a bond or provides other satisfactory means of meeting claims arising from loss, damage or misuse of documents entrusted to it; or
 - revoke a certificate by written notice to the firm.

12. The names and contact details of each approved legal copier firm will be displayed in the Registry and on the Court's website at www.lawlink.nsw.gov.au/sc

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 3 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 107 on 17 August 2005.

PRACTICE NOTE SC CL 4

Supreme Court Common Law Division – Defamation List

Commencement

1. This Practice Note commences 17 August 2005.

Application

- This Practice Note, relevant parts of the Uniform Civil Procedure Rules and Pt 67 of the Supreme Court Rules will apply to all current and new proceedings for defamation.
- The Court may direct that this Practice Note apply to any proceedings suitable to be entered in the Defamation List.

Definitions

- In this Practice Note:
 - s.7A trial means a trial of issues provided by section 7A(1)(3) of the Defamation Act 1974
 - 12A Notice means the notice provided for in Part 67 rule 12A
 - CPA means the Civil Procedure Act 2005
 - List means the Defamation List
 - List Judge” means the judge of the Common Law Division assigned to administer the Defamation List
 - SCR means the Supreme Court Rules 1970
 - UCPR means the Uniform Civil Procedure Rules 2005

Purpose.

- The purpose of this Practice Note is to explain the operation of the Defamation List in the Common Law Division.

Removal from the List

- Should the Court order the removal of proceedings from the List, this Practice Note (subject to paragraph 7 below) shall cease to apply to the proceedings.
- The Court may direct that this Practice Note shall continue to apply to the proceedings to the extent stated in the direction.
- A direction for removal from the List shall not affect any orders made or directions given prior to removal.

Endorsement of documents

- A party must add the words “Defamation List” under the heading and title of a document filed by that party in proceedings that:
 - are entered in the List, or
 - will be entered in the List as a result of the filing of the document.

Case management

- The Court intends to dispose of defamation proceedings within 12 months of commencement. From their entry in to the List, a registrar will actively manage all cases under the guidance of the List Judge. If a matter is not progressing satisfactorily, it will be listed before the List Judge for corrective action. Parties are expected to conduct cases in line with the principle of the resolution of issues in a just, quick and cost effective manner, as set out in section 56 of the CPA, so that they will be before the Court on only the following occasions:
 - the first return date of the Statement of Claim for directions;
 - the determination of any disputes or objections including those concerning imputations (Part 67, rule 12A of SCR);
 - (c) callup for the trial of issues provided for by s.7A(1)(3) of the Defamation Act 1974 (“s.7A”);
 - the s.7A trial;
 - the Final Directions Hearing fixed at the conclusion of the s.7A trial; and
 - the trial of the balance of the proceedings.

Statement of Claim

The Statement of Claim must contain the full and complete particulars as required by UCPR 15.1 and Part 67 rule 12 of the SCR.

First return date

- At filing of the Statement of Claim, the Court will fix a return date not less than 28 days from the date of filing. Parties are expected to strictly comply with the requirements for entry of appearances and 12A notices and replies.
- On the return date before the registrar:
 - (a) the defendant will be required to state whether it admits publication of the matter complained of; and
 - (b) the parties will be required to state whether they dispense with matters requiring formal proof for the purposes of the s.7A trial.

Part 67 rule 12A disputes

- The List Judge will hear and determine any rule 12A disputes or objections.
- Upon the resolution of disputes or objections and the determination of all issues as to form and capacity of imputations, the proceedings will be set down for the s.7A trial.

Directions as to s.7A trial

- Directions will be given by the List Judge as to the preparation of the proceedings for the s.7A trial, including the exchange of witness statements (for example expert reports, including reports by expert translators), in respect of each party's case in chief.
- Those directions will not, otherwise than in exceptional circumstances, require any party to give interim discovery, or authorise any party to administer interrogatories, in relation to s.7A trial issues.

17. The conduct of the 7A trial will be a matter for the trial judge.

Directions as to the final hearing

18. Upon the completion of the s.7A trial, the trial Judge will direct the parties to a directions hearing before the registrar not later than 7 after the hearing. Directions as to the filing of a defence and any other necessary matters as outlined in paragraph 10 of this Practice Note.

19. The Defence and Reply must contain full and proper particulars of all matters required by the UCPR, the SCR and as otherwise directed.

20. Directions will be given in relation to remaining pleadings, discovery and interrogatories bearing in mind the principles in paragraph 10 of this Practice Note. If any objection or dispute in relation to particulars is to be made to any matter pleaded, a 12A notice must be given.

Discovery and interrogatories

21. By reason of the parties' obligation to properly particularise their respective cases in the pleadings, it will be expected that all issues, at the time of the filing of the Reply, will have been exposed to enable the parties to comply strictly with Rules and directions as to discovery and inspection.

22. Generally, leave to issue more than 30 interrogatories will not be granted.

Trial of the balance of the issues

23. The conduct of the trial of the balance of the issues will be for the trial Judge. This trial is to be a trial in the strict sense and not an occasion for the parties to seek to ventilate any interlocutory matters.

Other interlocutory proceedings

24. If, at any stage, a party seeks interlocutory relief, that relief should be sought formally by the filing of a notice of motion returnable in a Defamation Directions List no earlier than 14 days from the issue of the notice of motion. With that notice of motion must be filed an affidavit containing relevant matters by way of evidence in support of the relief sought, together with an outline of submissions, to which the opposing party must respond in writing no later than 3 days before the return date.

Injunctions against publication

25. The practice of the Court is for all defamation matters to be dealt with in the Common Law Division, and applications for an injunction against publication of defamatory matter should be made to the List Judge or, if that Judge is unavailable, to the Common Law Duty Judge rather than in the Equity Division.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CL 4 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note Nos. 85 and 114 on 17 August 2005.

See also:

Practice Note SC CL 1 Supreme Court Common Law Division – General

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Practice Note SC Gen 4 Supreme Court – Affidavits

Practice Note SC Gen 11 Supreme Court – Joint conferences of expert witnesses

Civil Procedure Act 2005

Uniform Civil Procedures Rules 2005

Supreme Court Rules 1970

Defamation Act 1974

Amendment history:

PRACTICE NOTE SC CL 5

Supreme Court Common Law Division – General Case Management List

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to proceedings mentioned in paragraph 5 of this Practice Note which are in, or to be entered in, the General Case Management List.

Definitions

3. In this Practice Note:

ADR means Alternative Dispute Resolution

CPA means the Civil Procedure Act 2005

GCM means General Case Management

GCM document means the document mentioned in paragraph 11 of this Practice Note.

List means the General Case Management List

Single expert witness means an expert witness jointly retained by the parties or appointed by the Court in proceedings in which a claim is made for damages for personal injury or disability

UCPR means Uniform Civil Procedure Rules 2005

Introduction

4. The purpose of this Practice Note is to explain the operation of the General Case Management List.

Proceedings covered by GCM

5. GCM applies to the following proceedings in the Common Law Division:

- all active proceedings commenced by statement of claim;
- proceedings transferred from another court or from another division of the Supreme Court; and
- any other proceedings the court directs that it applies to.

6. GCM does not apply to:

- proceedings in the Defamation List;
- proceedings in the Professional Negligence List;
- proceedings in the Possession List; and
- proceedings that are commenced in the Administrative Law List.

7. The court may, at any time after the commencement of proceedings, direct that GCM apply to those proceedings.

Removal from the list

8. Upon proceedings being removed from the List, this Practice Note shall, subject to paragraph 9 not apply to the proceedings from the making of the order.
9. The Court may direct that this Practice Note shall continue to apply to the proceedings to the extent stated in the direction.
10. The making of an order removing proceedings from the List shall not affect any orders made or directions given prior to such removal.

The GCM document

11. In relation to any party, the GCM document refers to the document which, by virtue of this Practice Note, may be required to be filed by that party. The form and content of the GCM document are explained in Appendix A.
12. A plaintiff must file the GCM document at the same time as filing the originating process unless the proceedings are only for a liquidated demand or only for a liquidated demand and interest under Section 97 of the Civil Procedure Act (“default proceedings”).
13. 3.3 Where a defence or cross claim is filed in default proceedings the plaintiff must file the GCM document within one month after being served with an appointment for Directions Hearing and a defence and/or cross claim.
14. Each other party must file the GCM document not later than one month before the date of the Directions Hearing.

Directions Hearings

15. Proceedings in the List will be managed by way of Directions Hearings, the first of which will be appointed for approximately 3 months after proceedings are entered in the List.
16. The date of the first Directions Hearing will be given by the registry in a notice issued at the time of filing the statement of claim to be served by the filing party.
17. Upon a defence or a statement of cross claim being filed in default proceedings, the registry will give notice to all parties with an address for service in the proceedings of the date of the first Directions Hearing.
18. Where proceedings are transferred to the Common Law Division from another division of the Court or from another court, the Court appoints a date for the Directions Hearing upon receipt of the transferred file. The registry will advise parties with an address for service of the date.
19. At a Directions Hearing, proceedings may be listed at a specified future date for a further Directions Hearing.
20. Directions Hearings for cases to be heard at a venue other than Sydney may be conducted by telephone, for one or more of the parties. Parties wishing to avail themselves of this facility must advise the Sydney Registry in writing at least 7 days prior to the date scheduled for the Directions Hearing. This written advice is to be marked to the attention of “The Common Law List Clerk” and must indicate the telephone number that the party or the relevant legal representative wants to be called at for the Directions Hearing. This advice can be forwarded by facsimile transmission to (02) 9230 8234 or by email to supreme_court@courts.nsw.gov.au. Directions Hearings

involving parties to be contacted by telephone may have to be re-scheduled to a different time. The registry will contact those parties seeking a telephone Directions Hearing, and the other parties if the Directions Hearing has to be re-scheduled, to confirm the date and time of the Directions Hearing. Parties seeking a telephone Directions Hearing must ensure that the telephone number nominated is available from 10 minutes before the confirmed time of the Directions Hearing. A telephone Directions Hearing may not be available if the case involves multiple defendants that are separately represented and it is thought impractical to use the facility.

Action prior to first directions hearing

21. The originating process and pleadings should be as brief and precise as the nature of the case allows.
22. It is expected that the parties’ legal representatives will have discussed the case before the initial Directions Hearing and will have:
 - narrowed issues;
 - agreed on suitable interlocutory orders, directions or arrangements;
 - prepared a draft timetable for the future management of the proceedings;
 - prepared draft short minutes of any orders or directions to be sought at the Directions Hearing; and
 - discussed the possibility of settling the dispute by ADR.

Representation

23. Each party not appearing in person must be represented at the Directions Hearing by a barrister or a solicitor familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.

Action at a directions hearing

24. A Registrar conducts a Directions Hearing.
25. All parties attend a Directions Hearing where the orders and directions made are designed to resolve the case as quickly as possible. The tasks at a Directions Hearing include, but are not limited to:
 - considering whether the proceedings would more appropriately be heard in the District Court and making a consent order accordingly;
 - defining the matters in issue, including liability. If no defence (or defence to cross-claim) has been filed the Registrar may direct that there be judgment as to liability on that claim;
 - considering whether there should be a separate trial of the liability issue held before the trial of issues as to quantum, especially in the case of a child plaintiff where the assessment of damages may take some time before being able to be determined;
 - directing that a party or all parties serve or file and serve witness statements – the purpose of such directions being to facilitate clarification of issues and realistic negotiations for settlement;
 - considering whether ADR is suitable;
 - establishing whether any party requires a trial by jury (bearing in mind the provisions of UCPR 29.2);

- making consent orders for the completion at the earliest possible time of interlocutory steps such as discovery, interrogatories, views, medical examinations etc;
 - giving directions to ensure that the proceedings will be adequately prepared for trial within the time which the court fixes;
 - giving directions as to the date by which each party should provide a schedule stipulating the components of damage that party would allow if liability was not in issue; and
 - referring the matter to callup on a day after the time for compliance of the last direction made.
26. The purpose of the Directions Hearing is to ensure the just, quick and cheap disposition of proceedings in accordance with the overriding purpose set out in section 56 of the CPA. Each party is obliged to notify the Court and the other parties if they are aware of any substantial default which cannot be cured by paragraph 33(a).

Alternative Dispute Resolution

27. At any Directions Hearing, the Court may consider whether the proceedings are suitable for ADR.
28. ADR includes:
- mediation pursuant to the provisions of Part 4 of the CPA or otherwise;
 - arbitration pursuant to the provisions of Part 5 of the CPA.
29. If the matter appears to the Court to be appropriate for resolution by mediation or arbitration, the Court will refer the proceedings for mediation or arbitration.
30. The Court may give directions requiring statements from parties including a timetable to enable parties to be prepared for mediation.
31. Where proceedings involve a claim for damages in respect of personal injuries or in respect of the death of any person, the Court will, at the Directions Hearing, refer the proceedings for arbitration by a single arbitrator, unless it appears to the court that there is good reason why the matter should not be the subject of arbitration.
32. Where the court refers proceedings for arbitration, the court may give directions for the conduct of the arbitration.

Variation of directions and timetable

33. Case management directions given at a Directions Hearing and times set for compliance with any direction, may be varied:
- (a) by consent of all parties, so long as such variation does not extend the time for compliance with any direction beyond the day specified by the Court for compliance with the last direction made; or
 - (b) by the Court.
34. Where a party seeks a variation of the directions and timetable which is not consented to by all other parties or, where a party is in default in timely compliance with any direction, any party may apply to have a further Directions Hearing listed.

Listing for hearing

35. When ready for trial, proceedings will be referred to the Common Law call-up for a Hearing date to be allocated. At the Directions Hearing where matters involving

personal injury claims are referred to call-up, standard directions in the form of Appendix B are deemed to have been made, unless the Court otherwise orders.

Expert witnesses in personal injury actions

36. The Court is concerned about the excessive number of experts qualifying to give evidence and giving evidence in personal injury cases. The practice of having a large number of experts qualifying, both medical and otherwise, whose opinions are commonly overlapping and whose reports either are not used or are of little assistance to the Court when tendered, is costly, time consuming and productive of delay. The attention of practitioners in cases in which a claim is made for personal injury or disability is drawn to Practice Note SC Gen 10 which deals with "Single Expert Witnesses".
37. Where it is considered that an unnecessary expert has qualified or is sought to be called to give evidence, then the Court may:
- reject the tender of the expert's report;
 - refuse to allow the expert to be called; and
 - disallow any costs incurred in qualifying, in having the expert's report prepared or in calling the expert to give evidence.
38. As a guide, the number of expert witnesses giving evidence on behalf of a party shall be limited to:
- (a) one medical expert in any specialty, unless there is a substantial issue as to ongoing disability, in which case the number shall be limited to two in any relevant specialty concerning that disability; and
 - (b) two experts of any other kind.
39. Actuarial reports will as a rule be considered unnecessary except in special circumstances where they are shown to be of assistance in the assessment of damages, for example in proceedings under the Compensation to Relatives Act 1897 or where a claim is made for the costs of future fund management.

Single expert witnesses

40. This part of the Practice Note applies to all proceedings in which a claim is made for damages for personal injury or disability.
41. Unless cause is otherwise shown, a single expert direction will be made in every proceeding and at the earliest practicable time in the course of case management.
42. A single expert direction, when made in those terms, means that the following directions are to be taken as having been made, with such variations as may be specified at that time or subsequently:
- Any expert evidence is confined to that of a single expert witness in relation to any one head of damages, including but not limited to the nature, extent and cost of required nursing care or domestic care (including claims under *Griffiths v Kerkmeyer* and under *Sullivan v Gordon*), physiotherapy, speech therapy, home modification, motor vehicle or aids and equipment, being evidence of the kind customarily given (by way of example) by rehabilitation consultants, occupational therapists, nursing and domestic care providers, architects, builders, motor vehicle consultants, and by aids and equipment suppliers.

- Evidence may be provided by the same single expert in relation to more than one head of damages provided the expert is appropriately qualified. It is contemplated, however, that there may be a number of single expert witnesses retained or appointed in the one proceedings.
 - In relation to any head of damages as to which any party wishes expert evidence to be adduced, the parties are to agree on a single expert to be retained and are to obtain the concurrence of the expert within 14 days from a date specified in the order as the commencement date of the direction, otherwise within 14 days from the making of the direction.
 - Failing agreement and concurrence within that time, the parties are to notify the court forthwith, and the court will, pursuant to Part 31 of the UCPR, appoint a Court expert to be the single expert.
 - Within 14 days from the selection or appointment of a single expert witness, the parties are to brief the expert, in such manner as the parties may agree, with materials sufficient to enable the expert to prepare a report. If the parties do not so agree, they are to notify the court forthwith and the court will give directions as to how the single expert witness is to be briefed.
 - If the parties agree or the single expert witness so requests, the plaintiff in the proceedings is to submit to clinical examination by the single expert witness.
 - Within 21 days from the date on which a single expert witness is so briefed, the expert is to send his or her report to each of the parties to the proceedings, through their legal representatives.
 - A single expert witness may be requested to provide a supplementary report taking into account any new or omitted factual material. The provisions of this part of the practice note apply to such a supplementary report *mutatis mutandis*.
 - Any party may, within 14 days from receipt of the report, put a maximum of 10 written questions to the expert, but for the purpose only of clarifying matters in the report unless the court otherwise grants leave. The expert is to answer the questions within 14 days.
 - The report of a single expert witness and any question put to the expert and the expert's answer thereto may be tendered by any party at the trial subject to all just exceptions.
 - A single expert witness may be cross-examined at the trial by any party.
 - A single expert witness's fee for preparation of the report and any supplementary report and for attending Court, if required to do so, is to be paid by the parties equally, subject to other agreement or direction and subject to any later order concerning the costs of the proceedings. A single expert witness's fee for answering questions put by a party is to be paid by the party, subject to the same qualification.
 - A single expert witness may apply to the Court for directions.
43. Nothing in this part of the Practice Note is intended to require the retaining or appointment of a single expert witness in relation to liability, the nature or extent of injury or disability, or the causation of injury or disability.

Appendix A

44. Each party files the GCM document in order to provide the Court with information which will ensure that the Directions Hearings are efficient and effective.
45. A GCM document is not a pleading. It may be amended at any time without leave, but any amendment may be taken into consideration upon the question of costs.
46. A statement in a GCM document about the expected need for discovery or interrogatories does not preclude a later application in accordance with the rules for such interlocutory steps.
47. In addition to the matters specifically required by this Practice Note to be included in the GCM document, any party may include in that document, for the information of the Court and the other parties, any further information which that party wishes to be taken into account for any purpose at the Directions Hearings.
48. If a report or other document which is annexed to a party's GCM document has already been served on another party, a further copy of that report or document need not be annexed to the copy of the GCM document which is to be served on that party. That copy of the GCM document must however include a schedule listing the reports and documents which have been served and the date of service.

Plaintiff's GCM document

- P1.1 The plaintiff's GCM document is to contain:
- P1.1.1 a concise narrative of the facts the plaintiff intends to prove on the issue of liability, so drafted as to expose the specific matters of fact, but not law, upon which liability is likely to depend;
- P1.1.2 where the plaintiff's claim arises out of an event that has been the subject of previous proceedings, such as a prosecution, a coronial inquest or an inquiry – a statement clearly identifying the previous proceedings.
- P1.1.3 where the plaintiff's claim is for damages for personal injuries:
- (a) a statement about any other proceedings the plaintiff has brought in any court for damages for personal injuries which may be relevant to the assessment of damages in the proceedings in which the GCM document is filed. The statement must clearly identify the other proceedings even if they are not related to the event out of which the present proceedings arise; and
 - (b) full particulars of any accident or injury the plaintiff has suffered which is not the subject of a claim in the proceedings in which the GCM document is to be filed and which may be relevant to the assessment of damages;
- P1.1.4 where the plaintiff is represented by a solicitor, a statement by the solicitor setting out the solicitor's opinion about:
- (a) whether it is likely that discovery of documents will be needed;

- (b) whether it is likely that interrogatories will be needed and, if so, why;
- (c) whether it is likely that the plaintiff will require expert evidence (other than medical evidence on quantum of damages) and, if so, in what area of expertise;
- (d) any special feature of the plaintiff's claim that might affect the complexity or length of the trial; and
- (e) whether the exchange of witness statements or affidavits would be likely to assist the early resolution of the matter;

P1.1.5 a statement of:

- (a) in the case of an action that includes a motor accident claim (as defined by the District Court Act 1973) – why the amount to be awarded to the plaintiff in the case, if successful, would be likely to exceed \$1,000,000 and why the case involves complex legal issues or issues of general public importance;
- (b) in any other case claiming damages in respect of personal injury or death – why the amount to be awarded to the plaintiff in the case, if successful, would be likely to exceed \$750,000 or why there is other sufficient reason for trying the action in the Court (for example: that it is a test case, a matter of public interest or otherwise affecting the personal reputation of one or other of the parties); or
- (c) in any other case – why the amount to be awarded to the plaintiff in the case, if successful, would be likely to exceed \$450,000 or why there is other sufficient reason for trying the action in the Court.

P1.2 Where the plaintiff's claim is for damages for personal injury or in respect of the death of any person, the plaintiff is to annex to the GCM document:

P1.2.1 a copy of any relevant report concerning the accident or injury.

Defendant's GCM document

D2.1 The defendant's GCM document is to contain:

- D2.1.1 a concise narrative of the facts the defendant intends to prove on the issue of liability, including contributory negligence, so drafted as to expose the specific matters of fact upon which liability is likely to depend;
- D2.1.2 a description (name, place of residence, place of business and occupation) of any person from whom the defendant believes, upon his or her then state of knowledge, that the defendant may be entitled to contribution or indemnity if the plaintiff gains judgment against the defendant; the defendant must include this information even if he or she currently does not intend to join this person as an additional defendant;
- D2.1.3 where the defendant is represented by a solicitor, a statement by the solicitor setting out the solicitor's opinion about:
 - (a) whether it is likely that discovery of documents will be needed;

- (b) whether it is likely that interrogatories will be needed and, if so, why;
- (c) whether it is likely that the defendant will require expert evidence (other than medical evidence on quantum of damages) and, if so, in what area of expertise;
- (d) any special feature of the plaintiff's claim or the defendant's defence that might affect the complexity and length of the trial; and
- (e) whether the exchange of witness statements or affidavits would be likely to assist the early resolution of the matter;

D2.1.7 a statement of any reason for which it will be submitted that the action is not appropriate to be brought in the Supreme Court.

D2.2 Where the plaintiff's claim against the defendant is for damages for personal injuries, the defendant is to annex to the GCM document (unless the document has been provided to the plaintiff pursuant to paragraph 48):

- D2.2.1 a copy of any claim form or written report of the injury or accident the defendant or its insurer has received from the plaintiff;
- D2.2.2 where the defendant or its insurer has interviewed the plaintiff, and one of the purposes of that interview was to prepare for potential or existing litigation, a copy of any statement made by the plaintiff in that interview, relating to liability or contributory negligence in relation to the claim;
- D2.2.3 any documents referred to in P1.2.1 in the possession of the defendant that have not already been served by any other party;
- D2.2.4 a list only of any medical certificate or medical report held by the defendant, issued by a doctor who has treated the plaintiff in respect of the injuries alleged in the statement of claim; and
- D2.2.5 a list of relevant photographs, films or video tapes in the possession of the defendant, and a statement of the arrangements proposed by the defendant for the viewing thereof by any other party.

Note: where the defendant claims that there is a legitimate forensic reason why the existence or contents of any such medical certificate, medical report, photograph, film or video tape should not be disclosed prior to trial, the defendant may, prior to a Directions al, apply ex parte (without filing a notice of motion) to a registrar in chambers, upon an affidavit of the relevant circumstances, for an order that the same be not disclosed in the GCM document. The applicant for such an order shall produce to the registrar a draft order for signature, which order (if made) having been made, should be delivered to the applicant and not retained in the court file.

Cross-Claimant's GCM document

XC3.1 A cross-claimant's GCM document is to contain:

- XC3.1.1 a concise narrative of the facts the cross-claimant intends to prove on the issue of the cross-defendant's liability, so drafted

- as to expose the specific matters of fact upon which liability is likely to depend;
- XC3.1.2 where the cross-claimant is represented by a solicitor, a statement by the solicitor setting out the solicitor's opinion about:
- (a) whether it is likely that discovery of documents will be needed;
 - (b) whether it is likely that interrogatories will be needed and, if so, why;
 - (c) whether it is likely that the cross-claimant will require expert evidence (other than medical evidence on quantum of damages) and, if so, in what area of expertise;
 - (d) any special feature of the plaintiff's claim or the cross-claimant's claim that might affect the complexity or length of the trial; and
 - (e) whether the exchange of witness statements or affidavits would be likely to assist the early resolution of the matter.
- XC3.1.3 any information of the type referred to in P1.2.1 that the cross-claimant knows;
- XC3.1.4 where the plaintiff's claim is for damages for personal injury or in respect of the death of any person, list of relevant photographs, films or video tapes in the possession of the cross-claimant, and a statement of the arrangements proposed for the viewing thereof by any other party.
- Note: where the cross-claimant claims that there is a valid forensic reason why the existence or contents of any such photograph, film or video tape should not be disclosed prior to trial, the cross-claimant may, prior to a Directions Hearing, apply *ex parte* (without filing a notice of motion) to a registrar in chambers, upon an affidavit of the relevant circumstances, for an order that the same be not disclosed in the GCM document. The applicant for such an order shall produce to the registrar a draft order for signature, which order (if made) having been made, should be delivered to the applicant and not retained in the court file.
- Cross-Defendant's GCM document**
- XD4.1 A cross-defendant's GCM document is to contain:
- XD4.1.1 a concise narrative of the facts the cross-defendant intends to prove on the issue of liability, including contributory negligence, so drafted as to expose the specific matters of fact upon which liability is likely to depend;
- XD4.1.2 where the cross-defendant is represented by a solicitor, a statement by the solicitor setting out the solicitor's opinion about:
- (a) whether it is likely that discovery of documents will be needed;
 - (b) whether it is likely that interrogatories will be needed and, if so, why;
 - (c) whether it is likely that the cross-defendant will require expert evidence (other than medical evidence on quantum of damages) and, if so, in what area of expertise;
 - (d) any special feature of the plaintiff's claim or of the cross-claim or the cross-defendant's defence that might affect the complexity or length of the trial; and
 - (e) whether the exchange of witness statements or affidavits would be likely to assist the early resolution of the matter.
- XD4.1.3 where the plaintiff's claim is for damages for personal injury or in respect of the death of any person, a list of relevant photographs, films or video tapes in the possession of the cross-defendant, and a statement of the arrangements proposed by the cross-defendant for the viewing thereof by any other party.
- Note: where the cross-defendant claims that there is a valid forensic reason why the existence or contents of any such photograph, film or video tape should not be disclosed prior to trial, the cross-defendant may, prior to the Directions A1, apply *ex parte* (without filing a notice of motion) to a registrar in chambers, upon an affidavit of the relevant circumstances, for an order that the same be not disclosed in the GCM document. The applicant for such an order shall produce to the registrar a draft order for signature, which order (if made) having been made, should be delivered to the applicant and not retained in the court file.
- XD4.2 Where the plaintiff's claim is for damages for personal injuries:
- XD4.2.1 a copy of any claim form or written report of the injury or accident the cross-defendant or its insurer has received from the plaintiff or the cross-claimant (unless the document has been provided to the plaintiff pursuant to paragraph 48);
- XD4.2.2 where the cross-defendant or its insurer has interviewed the plaintiff or the cross-claimant, and one of the purposes of that interview was to prepare for potential or existing litigation, a copy of any statement made by the plaintiff or the cross-claimant in that interview relating to liability or contributory negligence in relation to the claim;
- XD4.2.3 any documents referred to in P1.2.1 and P1.2.2 of this Appendix in the possession of the cross-defendant that have not already been served by any other party.

Appendix B

48. The plaintiff's legal representative is to prepare a draft chronology of relevant events in the matter and serve a copy of it upon other parties which have an address for service at least 4 weeks prior to the hearing date allocated by the List Judge.
49. Each party is to prepare
 - a draft schedule of damages, outlining in detail the heads of damages, and what damages are likely to be, in the event of liability being established; and
 - a draft schedule of issues.
50. A joint chronology, schedule of damages and schedule of issues, outlining the areas of agreement and dispute, are to be filed by the plaintiff at least 7 days prior to the hearing date.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CL 5 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 128 on 17 August 2005.

See also:

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Practice Note SC Gen 6 Supreme Court – Mediation

Practice Note SC Gen 10 Supreme Court – Single Expert Witnesses

Civil Procedure Act 2005

Uniform Civil Procedure Rules 2005

PRACTICE NOTE SC GEN 4

Supreme Court – Affidavits

Commencement

1. This Practice Note commences on 17 August 2005.

Application

2. This Practice Note applies to the Court of Appeal, the Court of Criminal Appeal, and each of the Divisions of the Supreme Court.
3. This Practice Note does not apply to the Criminal List of the Common Law Division.

Definitions

4. In this Practice Note:

Tender bundle means a bundle of affidavits that a party intends to rely upon at a hearing (including an interlocutory hearing), whether previously filed or not

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

5. UCPR 35.9 provides that an affidavit may generally not be filed in proceedings except by leave of the Court. A rule may require an affidavit to be filed: UCPR 35.9(a) and (b); and see pars 8 and 16 below. UCPR 35.9(c) provides that affidavits may be filed in accordance with a Practice

Note. The purpose of this Practice Note is to prescribe the procedures surrounding the use of affidavits in the Court.

Affidavits may not be filed without leave of the Court

6. As stated, an affidavit generally may not be filed in proceedings except by leave of the Court. An affidavit which has not previously been filed should be filed in Court at the hearing before it is read.
7. However, where an affidavit is to be read, unless it has already been filed and served (see UCPR 10.1), the party seeking to rely upon that affidavit must serve the affidavit on the relevant parties within a reasonable time before the hearing, unless the Court otherwise orders. See UCPR 10.2.

Proceedings in which Affidavits must be filed

8. Subject to any orders or directions of the Court, an affidavit must always be filed before it can be relied upon in the following types of proceedings:
 - All proceedings in the Court of Criminal Appeal.
 - All proceedings concerning the adoption of a child in the Equity Division.
 - All proceedings in the Admiralty List of the Equity Division.
 - All proceedings in the Corporations List of the Equity Division.
 - All proceedings in the Probate List of the Equity Division.
 - All proceedings in the Protective List of the Equity Division.
 - All proceedings involving an appeal to the Court under UCPR 46.

Tender Bundles

9. Where a matter is for hearing, the party seeking to rely upon documents at that hearing must deliver not later than 48 hours prior to the hearing date a “tender bundle” to the chambers of the presiding judicial officer.
10. The tender bundle is to include a copy of all affidavits, whether filed or not, that the party intends to rely upon.
11. The tender bundle is also to include a copy of the exhibits to the affidavits, unless the size or nature of the exhibit precludes this.
12. The tender bundle may include other documents that will be relied upon at the hearing, such as a copy of the originating process, pleadings or notice of motion being relied upon.
13. The original affidavit and exhibit must be available for production at the hearing. Before an affidavit is read, it must be filed in Court.
14. At the conclusion of the hearing, the tender bundle will either be returned to the party, or will be destroyed by the Court.

Cross Examination

15. Parties should note the provisions of UCPR 35.2 in respect of the requirements of giving notice for the attendance of a deponent for cross-examination.

Specific exemptions under the Rules.

16. Notwithstanding this Practice Note, parties should note that certain provisions of the UCPR require the filing of an affidavit. These provisions include:

- UCPR 7.2 – Affidavit as to authority to commence proceedings.
- UCPR 12.2 – Affidavit where proceedings are discontinued.
- UCPR 14.23 – Verification of pleadings.
- UCPR 14.24 – Further affidavit as to verification of pleadings.
- UCPR 16.3 – Default judgment.
- UCPR 16.4 – Default judgment for possession of land.
- UCPR 16.5 – Default judgment for return of goods.
- UCPR 16.6 – default judgment on liquidated claim.
- UCPR 16.7 – Default judgment on unliquidated claim.
- UCPR 16.9 – Default judgment for costs alone.
- UCPR 26.6 – Default of receivers.
- UCPR 27.3 – Certificate on sale of land.
- UCPR 31.26 – Direction for further evidence by an expert.
- UCPR 32 – Evidence and Procedure (New Zealand) Act 1994 (Commonwealth).
- UCPR 36.8 – Judgment for possession of land.
- UCPR 36.10 – Filing of a certificate under the Legal Profession Act 1987 or the Legal Profession Act 2004.
- UCPR 37.2 – Application for instalment order.
- UCPR 37.6 – Variation of an instalment order.
- UCPR 38.2 – Application for an Order for Examination.
- UCPR 39.3 – Application for Writ of Execution.
- UCPR 39.21 – Registration of Writ.
- UCPR 39.35 – Application for Garnishee Order.
- UCPR 39.45 – Application for a Charging Order.
- UCPR 43.2 – Stakeholder’s interpleader.
- UCPR 46.14 – Affidavits in respect of appeals.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 4 was issued and commenced on 17 August 2005.

See also:

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Uniform Civil Procedure Rules 2005

PRACTICE NOTE SC GEN 5

Supreme Court – Costs orders against legal practitioners

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to new and existing civil proceedings in the Court.

Definitions

3. In this Practice Note:

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

4. The purpose of this Practice Note is to ensure compliance with directions and the rules of the Court.

Cost sanctions

5. The requirement that parties and practitioners comply with directions and rules will be confirmed by the use of costs sanctions in appropriate cases, including costs orders against practitioners personally and costs ordered on a payable forthwith basis.

Obligations of practitioners

6. Practitioners are reminded of their duty to the Court to ensure the efficient and expeditious conduct of proceedings. Practitioners must have regard to “the speedy and efficient administration of justice”(Giannarelli v Wraith).
7. Practitioners should be familiar with the UCPR requirements to:
 - facilitate the just, quick and cheap disposal of proceedings;
 - identify the issues genuinely in dispute;
 - be satisfied that there is a reasonable basis for alleging, denying or not admitting facts in pleadings.
8. The Court relies on practitioners, either directly or by giving appropriate advice to a client, to observe listing procedures, rules and Court directions, to ensure readiness for trial, to provide reasonable estimates of the length of hearings, to present written submissions on time and to give the earliest practicable notice of an adjournment application. Failure in any of these respects may be taken into account in exercising the jurisdiction to order costs against practitioners personally.

Late amendment of pleadings

9. The late amendment of pleadings may also attract a costs order against a practitioner. The considerations proposed by Justice Kirby in *State of Queensland v JL Holdings Pty Ltd* in relation to the granting of an indulgence with respect to a late amendment provide guidance, specifically in relation to late amendments but also generally in relation to procedural indulgences.

10. In appropriate cases, particularly those involving repeated defaults, the Court may refer an incident or incidents of default to the Law Society, Bar Association or Legal Services Commissioner.

Procedural considerations

11. The procedure to be followed where the Court is minded to make a costs order against a practitioner personally will be:
 - A practitioner will be given an opportunity to show cause why costs should not be ordered against him or her;
 - With the consent of the practitioner, the Court may take the show cause submission orally at the conclusion of any trial, application or other appearance before the Court;

- The Court may adjourn the matter to another day or date to be fixed, and may direct the practitioner to provide written submissions to the Court within a period specified by the Court;
- The Court may further direct that the matter proceed by written submission and by reference primarily to the materials that were before the Court during the proceedings to which the costs order relates;
- If it will assist the Court, the other parties to the proceedings may be directed or invited to make submissions in relation to the question of costs or any ancillary matter;
- If a practitioner informs the Court that he has requested his or her client to waive legal professional privilege in a respect which the practitioner asserts is relevant to the Court's consideration of the costs order, the Court will invite the client to make submissions on the matter and to indicate whether the client wishes an order to be made against the practitioner;
- Upon a determination by the Court that a practitioner shall be personally liable for the costs of a party to the proceedings or any part thereof and such costs are ordered to be payable forthwith, the Court may Order that a bill of costs relevant to the costs order be filed with the Court and served on the party liable to pay within such time as the Court orders and that such a bill of costs be in the form prescribed pursuant to section 193 of the Legal Profession Act; and
- The Judge or Associate Judge may determine and order the amount of costs payable under the costs order.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 5 was issued and commenced on 17 August 2005.

See also:

Whyte v Brosch. (1998) 45 NSWLR 354

Giannarelli v Wraith (1988) 165 CLR 543 at 556

State of Queensland v JL Holdings Pty Ltd (1996-97) 189 CLR 146 at 169-172

Uniform Civil Procedure Rules 2005

Amendment History:

PRACTICE NOTE SC GEN 6

Supreme Court – Mediation

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to proceedings in the Court of Appeal, the Common Law Division (civil cases only) and the Equity Division. This Practice Note does not apply to proceedings in the Court of Criminal Appeal or criminal proceedings in the Common Law Division.

Definitions

3. In this Practice Note:
CPA means the Civil Procedure Act 2005

Introduction

4. The purpose of this Practice Note is to explain the Court's mediation procedures and its expectations of parties in proceedings that have been referred to mediation.

Referrals generally

5. Part 4 of the CPA permits the Court at any stage of the proceedings, by order, to refer parties to mediation where, in the opinion of the Court, mediation appears appropriate. The Court's power does not depend on the consent of the parties, or of any of the parties.
 6. It is not the intention of the Court that mediation will be ordered in all proceedings.
 7. The parties themselves may, at any time, agree to mediation, nominate a mediator and request the Court to make the appropriate orders.
 8. The Court may consider ordering mediation on the motion of a party, or on referral by a registrar, or on the Court's own motion. Where mediation is ordered, the parties will usually agree on the person to be the mediator. If they do not:
 - the Court may select the mediator to be appointed or may appoint the mediator pursuant to the Joint Protocol set out in this Practice Note;
 - the Court may refer the proceedings to a registrar or other officer of the Court certified by the Chief Justice as a mediator to meet with the parties to discuss mediation and report back to the Court with a recommendation as to whether the proceedings are suitable for mediation; or
 - the Court may decide against ordering mediation.
 9. The Joint Protocol describes the expected course but its terms are not mandatory.
 10. The Court requires the parties to inform the Court of the outcomes of mediations ordered by the Court. Where a mediator is appointed under the Joint Protocol, the Court also requires the parties to provide the Joint Protocol Evaluation Information referred to in the Joint Protocol, which should be sent in writing to the Principal Registrar.
- ### Referral to a registrar or other officer
11. Where the Court refers proceedings to a registrar or other officer, that person will notify the parties of the time and place for an information session. It is anticipated that the information session will take no more than 15 to 30 minutes. Parties as well as their representatives must attend the session.
 12. At the conclusion of the information session, if the parties agree to mediation, the officer will make the necessary orders. If the mediator is to be a registrar, directions may be given for the filing and serving of position statements and any documents, reports, valuations etc that will assist the parties and the mediator. A direction will generally require all parties to the mediation to exchange relevant material not less than seven days before the mediation.
 13. Where the parties do not agree to mediation or to a mediator, the officer will report to the Court the outcome of the information session with his or her recommendation.

Proceedings case-managed by registrars

14. A registrar may, at his or her discretion, refer proceedings that in the opinion of the registrar are suitable for mediation, to the Court notwithstanding that the parties, or any one of them, do not consent to mediation.

Mediators

15. A person may be appointed by the Court as a mediator if the person:

- consents to being appointed; and
- agrees to comply with the provisions of Part 4 of the CPA and the provisions of this Practice Note.

16. The Chief Justice may certify registrars or other officers of the Court as qualified mediators.

17. Section 33 of the CPA describes the exoneration from liability that exists for mediators appointed under the provisions of this Practice Note.

Form of order for referral to mediation

18. Where proceedings are referred to mediation under section 26 of the CPA, the Court's order should provide one of the following:

- if the parties agree on a mediator or if the Court appoints a specific mediator (for example, where specific expertise is considered desirable), an order should be made that the proceedings be referred to that mediator; or
- if the Court appoints a registrar or other officer as the mediator, the order should be that the proceedings be referred to that person for mediation; or
- otherwise, the order should be that if the parties cannot agree on a mediator within a specified time (say 14 days) after the referral under section 26 of the CPA, the Joint Protocol described in this Practice Note then will apply and the mediator will be the person appointed under the Joint Protocol.

Joint Protocol: obligation of the plaintiff(s)

19. Where the Court's order requires a mediator to be appointed pursuant to the Joint Protocol, the plaintiff sends to the Principal Registrar a copy of the pleadings, or a copy of the summons if there are no pleadings, and informs the Principal Registrar of the Joint Protocol Referral Information. The plaintiff gives the Principal Registrar this information by letter within seven days of the Court's order and at the same time gives each other party a copy.

20. The Joint Protocol Referral Information is:

- the Court's order referring the proceedings to mediation;
- the nature of the proceedings; and
- the identity of the parties.

Joint Protocol: role of the Principal Registrar

21. The Principal Registrar keeps a list of proceedings in which the plaintiff(s) has informed him or her of the Joint Protocol Referral Information.

22. The Principal Registrar sends the Joint Protocol Referral Information and accompanying documents to one of the nominating entities listed at paragraph 24, with a request for nomination of a person as the mediator in the proceedings. The Principal Registrar sends the information on the day of receiving it or the following day.

Nominating entities in the Joint Protocol

23. The Court's Alternative Dispute Resolution Steering Committee keeps a list of professional associations that accredit mediators and provide mediation services suitable for Supreme Court proceedings.

24. The initial nominating entities are:

- the NSW Bar Association;
- the Law Society of New South Wales;
- the Institute of Arbitrators and Mediators Australia;
- the Australian Commercial Disputes Centre;
- LEADR; and
- the Australian Branch of the Chartered Institute of Arbitrators.

The nominating entities' fees for mediation

25. The Court may request that the President or Chief Executive Officer of any of the nominating entities consider providing mediation on a reduced or no fee basis.

Role of the nominating entity

26. Each of the nominating entities establishes a panel of suitable persons to whom Court ordered mediations may be referred. Each nominating entity regularly reviews its panels.

27. Within seven days of receiving the Joint Protocol Referral Information the President, the Chief Executive Officer or a delegate nominates in writing a person who:

- is a suitably qualified and experienced person, and
- consents to the nomination as the mediator in the proceedings.

The representative of the nominating entity then provides the telephone number, facsimile number and email address of the mediator to the Principal Registrar.

28. The person nominated is a person named on the panel of a nominating entity, but not necessarily on the panel of the nominating entity to which the Principal Registrar sent the Joint Protocol Referral Information.

29. Where the Court has requested mediation on a reduced or no fee basis the nominating entity endeavours to nominate a mediator who will provide mediation services on this basis.

30. A co-mediator can also be nominated if the President, Chief Executive Officer or delegate considers that this is warranted.

Effective date of appointment of mediator

31. On receipt of a nomination under paragraph 27 (and under paragraph 29, if applicable), the Principal Registrar promptly, by letter, facsimile or email, informs the parties to the proceedings of the name, telephone number, facsimile number and email address of the mediator (and any co-mediator).

32. When the Principal Registrar has dispatched the notifications referred to in paragraph 31, the person nominated by the President or the Chief Executive Officer of the nominating entity as the mediator (and any co-mediator so nominated) is deemed to have been appointed the mediator (and the co-mediator, if applicable) in the proceedings under section 26 of the CPA.

Request for review of appointment of mediator

33. A party to the proceedings may request the judicial officer who made the order referring the proceedings to mediation to review the appointment of the mediator (and the co-mediator, if applicable). Such a request should:
- be in writing;
 - be received by the Principal Registrar within 10 days of dispatch of notifications under paragraph 31;
 - state with specificity the objections that the party has to the mediator that has been appointed; and
 - be served by the party making the request on the other parties to the proceedings.

Evaluation of referral of proceedings to mediation and entry of any consent orders

34. Within 14 days after the conclusion of the mediation, the plaintiff in writing informs the Principal Registrar of the following (“Joint Protocol Evaluation Information”):
- the name and file number of the proceedings;
 - the name of the mediator;
 - the date(s) of the mediation;
 - the number of hours occupied by the mediation;
 - whether the parties were represented at the mediation by solicitors;
 - whether the parties were represented at the mediation by counsel;
 - whether the parties agreed to settle, or partly settle, the proceedings or whether no resolution of any issues was achieved;
 - to the extent that any terms of settlement are not confidential to the parties, the terms of settlement; and
 - if the parties agreed to the Court making orders, a signed consent order in a form suitable for entry by the Registry.
35. On receipt of the Joint Protocol Evaluation Information, the Principal Registrar will forward a copy of that information to the relevant nominating entity.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 6 was commenced and issued on 17 August 2005.

This Practice Note replaced Former Practice Note No. 125 on 17 August 2005.

See also:

Practice Note SC Gen1 Supreme Court – Application of Practice Notes

Civil Procedure Act 2005

PRACTICE NOTE SC GEN 7

Supreme Court – Use of Technology

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to new and existing civil proceedings in the Court of Appeal, the Common Law Division and the Equity Division.

Definitions

3. In this Practice Note:
“Rules” means the Supreme Court Rules 1970
See also the Glossary of Technical Terms at paragraph annexed to this Practice Note.

Introduction

4. The aim of this practice note is to
- (a) encourage the use of information technology as a means of improving the efficiency of civil litigation in general;
 - (b) emphasise the court’s power to require the use of technology in particular cases or circumstances;
 - (c) offer guidelines on the matters parties in civil actions ought to take into account in deciding how to make use of technology; and
 - (d) offer examples and suggested standards to assist parties in agreeing upon the extent and manner in which they will use technology to exchange information.

Encouraging the use of technology

5. All parties in civil proceedings are required at all stages of their litigation to consider the prospect of using technology for the purposes of information exchange and at trial itself. In preparing a case for trial the parties are specifically encouraged to
- (a) use electronic data to create lists of their discoverable documents;
 - (b) give discovery by exchanging databases created in accordance with an agreed protocol;
 - (c) exchange electronic versions of documents such as pleadings and statements;
 - (d) arrange for inspection of discovered material, and other material to be inspected by way of images if appropriate; and
 - (e) consider the use of electronic data at trial in accordance with the Court’s requirements.

Glossary of Technical Terms

6. For the purposes of a better understanding of this practice note, some definitions of technical terms appear in the annexed Glossary.

Directions regarding use of information technology generally in proceedings

7. The Court retains the power to direct parties to use information technology in appropriate cases. Parties shall comply with any directions issued by the Court in relation to the use of technology and shall comply with any requirements published by the Court in relation to issues concerning the use of technology, such as document formats.
8. It should be noted that whilst this practice note is advisory in nature the Court may mandate the use of the technology standards it describes in cases where the parties fail to agree on exchange and presentation mechanisms within a reasonable time frame.

Electronic exchange of court documents

9. Where a party serves a pleading, affidavit, statement, list of documents or interrogatory on another party, the recipient may ask the first party to also provide a copy of it in an electronic format.

10. The Court expects parties to accede to reasonable requests for copies of court documents in an electronic format. Before providing copies the parties shall make all reasonable efforts to agree upon:

- (a) the word processing or other format in which electronic versions will be provided;
- (b) the methods by which electronic versions will be exchanged; and
- (c) any other terms and conditions of electronic exchange.

Document formats

11. Where appropriate the parties may wish to agree upon the preparation of a document in a structured format, such as HTML, so that hypertext links can be made where appropriate. For example, if a document refers to a document ID, a hypertext link can be made to the relevant document image.

Content of court documents

12. A court document provided by a party in electronic format shall contain the same text as the paper copy. Where a court document contains an annexure, however, the text of the annexure will be expected to be contained within the electronic copy only where the annexure was created for the purposes of the litigation by or on behalf of that party or that party's solicitor.

Risk of computer viruses

13. Generally it will not be regarded as unreasonable for a party to provide documents in electronic format subject to a condition that it is the responsibility of the recipient to test it for viruses.

Providing electronic copies to the court itself

14. The Court may direct a party to provide the Court with copies of court documents in an electronic format. A party who provides a document to the Court in electronic format shall provide appropriate written warnings about the need to test for viruses.

Electronic exchange of discovery lists and documents

15. As a general rule the Court will expect the parties to consider preferring the use of technology to exchange information where they believe more than 500 documents between them will be discoverable. Decisions about the appropriate use of technology will be better informed if the parties have identified early in the proceedings the scope of discovery and the categories of documents likely to be discovered.

Agreeing by written protocol

16. Where the parties agree that discovery should be given by exchange of electronic data they should:

- (a) endeavour to reach agreement early in the proceedings on the protocol to be used and the scope of that protocol; and
- (b) seek either consent orders or directions from the Court, if agreement is not reached, concerning the terms of the protocol.

Directions by the Court with respect to information exchange and discovery

12.1 The Court may make orders that parties:

- (a) meet to discuss how best to use information technology to exchange information about their discoverable documents;

(b) make written submissions on how best to use technology with respect to discovery and the management of information in the proceedings generally.

12.2 As a general rule, by the second directions hearing the Court will expect each party:

- (a) to have investigated the number and categories of documents likely to be discoverable by that party, taking into account any limits on discovery that may be agreed between the parties or are the subject of a direction by the Court;
- (b) to have attempted to agree with the other parties on whether and how to use technology to exchange lists of their discoverable documents; and
- (c) to be able to make informed submissions about whether and how technology should be used to exchange lists of their discoverable documents.

Technology Checklist

17. In developing a protocol on electronic exchange the parties shall consider the matters described in the annexed Technology Checklist. The Checklist is a guide only and parties should feel free to agree on appropriate changes to it. However, if the parties are unable to agree on a protocol then the default options indicated in the checklist will apply as a minimum standard.

Recommended fields

18. The fields and associated guidelines described in the annexed Recommend Fields are those which ought to be used for the purpose of electronic exchange and which, in the absence of agreement to the contrary by the parties, may be mandated by the Court in a given case.

Verification of electronic lists

19. Each party shall consider how lists of documents shall be verified where data about those documents is to be exchanged electronically.

Orders to dispense with verifications by affidavit

20. Existing rules of Court presuppose that a hard copy list of documents will be verified by affidavit. Where a party believes that it is appropriate to dispense with verification of a hard copy list, that party should ask the Court for an appropriate direction.

Verification by reference to method of service

21. As an alternative to verification of a hard copy list, the parties may wish to consider asking for a direction that the verifying affidavit identify the documents by reference to the medium by which the data was served and the date of service. For example, the affidavit may refer, in a hypothetical case, to: the documents described in the database contained on the compact disks served on the defendant under cover of letters date 21 January, 24 January and 29 March 2003.

Providing electronic lists of documents to the Court itself

22. The parties shall consider whether data relating to their discoverable documents should be provided to the Court in addition to any hard copy list.

Use of technology during an hearing

23. Where parties have used databases or databases and associated documents or images to facilitate discovery and inspection, the parties should consider and make

submissions about how best to use technology at the hearing. For example, the parties' discovery databases might form the basis of an index to the agreed bundle, or for the creation of a database of documents admitted into evidence and rulings on the admissibility of documents.

Equipment at hearing

24. More generally, the parties should consider:

- (a) the equipment and services that they and the Court may require at the trial including appropriate hardware, software and additional infrastructure; and
- (b) the arrangements that may need to be made between the parties, the Court and any third party service providers to ensure that appropriate equipment and services are available at the hearing.

Technology Checklist

25. Parties are encouraged to use this Checklist to identify technology issues that may arise during proceedings. The default or minimum court options may be mandated in a given case if the parties cannot agree.

(** = default or minimum standard)

Pre-Trial

| | | |
|--|---|---|
| Document Exchange of Court Documents and Witness Statements Hard copy only Electronic Copy only Hard copy and electronic copy** | Electronic Document Format ASCII text file** MS Word Version _____ WordPerfect version ____ XML RTF HTML Other _____ | Document Exchange Via DX Courier Australia Post Floppy Disk** Electronic mail CD Rom Internet |
|--|---|---|

Discovery

| | | |
|---|--|---|
| Exchange of Document Lists Hard copy only Electronic Copy only Hard copy and electronic copy** | Electronic Document List Format Delimited ASCII text file** Word processing format _____ Excel spreadsheet XML Other _____ | Document Exchange Via DX Courier Australia Post Floppy Disk** Electronic mail CD Rom Internet |
|---|--|---|

| |
|--|
| Example Database Formats MS Access Lotus Notes Filemaker Pro MS SQL Sybase Excel Spreadsheet** Oracle Other |
|--|

| | | |
|---|--|---|
| Document Inspection Format Hard copy only Electronic/image of hard copy Hard copy and electronic/image copy** Non-paper record for example, video/audio tape, database, microfiche, etc Other Medium _____ | Electronic Image Formats TIFF – Multi TIFF – Single** PDF GIF Other | Special Considerations Redacting (masking) Confidentiality Other |
|---|--|---|

Trial

| | | |
|--|--|--|
| Exchange of Agreed Bundle/ Court Book Indexes Hard copy only Electronic/image of hard copy Hard copy and electronic/image** copy Other Medium _____ | Electronic Document Index Format Delimited ASCII text file** Word processing format Excel spreadsheet Other | Document Exchange Via DX Courier Australia Post Floppy Disk** Electronic mail CD Rom Internet/Intranet |
|--|--|--|

- (a) Image Resolution
Images may be scanned in at around 200 dpi. Any greater file size may be unworkable.
- (b) Filename Structure
Images may be named identically to the relevant Document ID or according to the agreed folder structure. If images are named in accordance with the naming convention of the full document ID then the dots within the Document ID may be omitted (other than the dot preceding the file extension).
- (c) Special Considerations
Consideration should be given to
 - whether there are any special requirements, such as redacting (masking).
 - the implications of using technology in respect of information that may be subject to confidentiality orders or undertakings.
- (d) Recommended fields and default fields**
The Court encourages the use of the field definitions in the attachment – Recommended Fields. Among the Recommended Fields the following are the default fields, i.e. those which the parties will be expected to use as a minimum standard unless otherwise agreed or ordered:
 - Document ID
 - Date
 - Document type
 - Author/ Author organisation
 - Addressee/ Addressee organisation
 - Title.

* * *

Recommended Fields

Fields that are identified as default fields are those that ought to be used as a minimum standard and which, in the absence of agreement to the contrary, may be mandated by Court order in a given case.

| <i>Field</i> | <i>Data type and length</i> | <i>Notes</i> |
|----------------------------------|--|--|
| Document id (Default field 1) | Text and Numbers (if appropriate) Length – depending on field structure | Each document should be uniquely identified. The field may be broken into different components such as First Page and Last Page providing the parties agree. The field or fields might comprise a four-part number in form AAA.NNN.NNN.NNNN where “AAA” represents alphabetic shorthand for the party name. The other three sets of numbers could be used to suit the convenience of the parties. It may be useful if the first set is used to refer to an archive box number, the second to the number of the folder within the box, and the third to the page number. Rules for the numbering hierarchy can be agreed prior to discovery and the above is to be used as a guide not the definitive form. The parties should consider whether each page should be individually numbered or agree on some other satisfactory arrangement. If agreement is not reached then the parties should seek the Court’s direction. If the parties agree not to number each page, consideration should be given to an additional field recording the number of pages in each document. Attachments to documents can be separately listed and numbered. Attachments can be numbered sequentially following the host document. For example, a host document may be numbered XXX.001.001.0001 and its attachments would be numbered as XXX.001.001.0002, XXX.001.001.0003 and XXX.001.001.0004. If imaging is to be used the parties can agree to any additional information about document identification. |

| | | |
|---------------------------|---|--|
| | | It is recommended that the document id match the image file name i.e. where the document id is AAA.NNN.NNN.NNNN then the image file name should be AAA.NNN.NNN.NNNN.tiff |
| Attachments | Text & Number, Length - depending on the number of attachments | Contains first and last pages of each document physically attached to a discovered document. Does not include documents that are only referred to in a discovered document. Each attachment should be listed separately, with its own discovery number and details. Multiple entries to be separated by commas. |
| Host Document Number | Text and Number, Length depending on the document id. structure | Contains First Page and – if agreed – Last Page of the host document to which an attachment is attached. Should never be multiple entries in this field, as each attachment should only ever have one host document. |
| Document Group | Text, 3 | HWA Host with attachment HNA Host no attachment ATT Attachment This field may be required if parties agree to swap image files. |
| Date (Default field 2) | Date, 11 | Date can be inserted as: DD/MMM/YYYY for example 05/Sep/1996 DD = Day MMM = Month YYYY = Year Undated documents: = Documents with no discernible date should be coded to a standard agreed between the parties which the parties will recognise as “undated.” For example, the date field may be left blank. (Where this option is selected the parties may choose to enter the word “undated” in an additional text field.) Alternatively, an agreed date format such as 01/Jan/1801 should be used. It is important to note that databases that use a Date Type format may not accept text such as ‘Undated’ or dates that include ‘00’ in the field. If there is no way of ascertaining the date of the document* |

| | | | |
|---------------------------------|---|--|--|
| | | <p>Documents with only the month and year (e.g. August 1997) can be coded with the first day of the month, the month and the year (e.g. 01/Aug/1997) and a 'Yes' an entry should be made in the next field – "Estimated Date" field.</p> <p>Documents with the day and month but no year are considered undated. . For example a document dated 04/ Apr will should be coded as "undated." as the year cannot be identified.</p> <p>Documents with just the year (e.g. 1997) should be coded with the first day of January (e.g. 01/Jan/1997) and a 'Yes' entry should be made in the 'Estimated Date' field.</p> <p>*If there is no way of ascertaining the date of the document, then the parties may agree upon what naming convention to use, for example, "Undated", or 00/00/0000, however, it should be noted that some database formats may not recognise these codes.</p> | <p>Status</p> <p>Text, 10</p> <p>"Copy" or 'Original' or "Fax". "Fax" should be used for a document that is either the original facsimile document (i.e. the document sent by the sender) or an original facsimile copy produced by the recipient's facsimile machine.</p> |
| | | | <p>Author (Default field 4)</p> <p>Text, 254 or as appropriate</p> <p>Person or persons who wrote the document. To be completed using information on the face of the document. Last name First initial only eg. "Smith B". If more than one author enter as "Brown J; Jones J, ..." etc. If more than one addressee for one company, enter as "Brown J; Jones J;..." etc.</p> <p>Other ways of addressing multiple values can be agreed between the parties.</p> |
| | | | <p>Author</p> <p>Text, 254 or as appropriate</p> <p>Organisation from which the document emanated. To be completed from information on the face of the document. Multiple entries to be separated by commas. Parties should agree on standard spellings or abbreviations for organisations.</p> <p>Other ways of addressing multiple values can be agreed between the parties.</p> |
| Document type (Default field 3) | Text, 254 | <p>This field is completed using commonly received document types e.g. letter, memo, deed. Parties should endeavour to create a list of agreed document types prior to discovery.</p> <p>If the document has been faxed, this field should include "facsimile".</p> <p>If a group of documents is being discovered as a bundle, this field should be completed as "Bundle of document type".</p> | <p>Addressee (Default field 5)</p> <p>Text, 254 or as appropriate</p> <p>Person or persons to whom the document is addressed. Includes persons to whom copies are circulated. To be completed from information on the face of the document. Last name First initial only eg. "Smith B". Multiple entries to be separated by commas.</p> <p>Other ways of addressing multiple values can be agreed between the parties.</p> |
| Privilege | Text, 6 | <p>This identifies whether a claim of privilege is made over the document. The permissible entries in this field are "YES", "NO" and "PART". If this field is completed with "YES" or "PART", the basis of privilege field must also be completed.</p> | <p>Addressee</p> <p>Text, 254 or as appropriate</p> <p>Organisation receiving the document. To be completed from information on the face of the document. Multiple entries to be separated by commas.</p> <p>Parties should agree on standard spellings or abbreviations for organisations.</p> <p>Other ways of addressing multiple values can be agreed between the parties.</p> |
| Basis of Privilege | Text, 50 (or combination of text and numbers) | <p>Identifies basis of privilege claim. Parties should agree how they will identify privilege claims. One possibility is to set out here the basis of the claim that the document is privileged eg, the section or sections of the Evidence Act.</p> | <p>Parties</p> <p>Text, 254 or as appropriate</p> <p>Identifies parties to an agreement or other legal document (not correspondence). Multiple entries to be comma delimited.</p> |

| | | |
|----------------------------|-----------------------------|---|
| Title (Default field 6) | Text, 254 or as appropriate | Title of a document such as "Report on Technology". |
| Source | Text, 20 or as appropriate | Parties may find this field useful to identify documents that have been obtained from someone other than the party giving discovery, e.g. documents obtained on subpoena or through some other compulsory process of obtaining access to documents. This field would identify the party from whom such documents were obtained. |
| Non-paper record | Text, 3 | This field should be used to identify information recorded using media other than paper, where the relevant information has not been printed out and discovered in hard copy form, e.g. video and audio tapes, floppy disks and magnetic computer tapes. Permissible entries are "YES" and "NO". |

Glossary

ASCII (American Standard Code for Information Interchange)

ASCII is the most common format for text files in computers and on the Internet. In an ASCII file, each alphabetic, numeric, or special character is represented with a 7-bit binary number

Database

A database is a collection of data that is organised so that its contents can easily be accessed, managed and updated

Delimiter

A delimiter is a character that identifies the beginning or the end of a character string (a contiguous sequence of characters).

Electronic Data

In computing, electronic data is information that has been translated into a form that is more convenient to move or process.

Field

A Field represents a column of data within a database. Each record (row) can be made up of a number of pieces of information and, therefore, consists of a number of fields. These fields may be displayed as a box to enter or display data (in a form or report).

GIF (Graphics Interchange Format)

A GIF is one of the two most common file formats for graphic images on the World Wide Web. The other is JPEG.

HTML (Hypertext Markup Language)

HTML is the set of "markup" symbols or codes inserted in a file intended for display on a World Wide Web browser.

Image

An image is a picture that has been created or copied and stored in electronic form, an electronic photocopy.

Medium

A medium is a third-party or element through which a message is communicated.

PDF (Portable Document Format)

PDF is a file format that has captured all the elements of a printed document. PDF is also an abbreviation for the Netware Printer Definition File but is not used in this document in this way.

RTF (Rich Text Format)

RTF is a file format that allows exchange of text files between different word processors in different operating systems.

SQL (Structured Query Language)

SQL is a standard interactive and programming language for getting information from and updating a database.

TIF or TIFF (Tagged Imaged File Format)

TIFF is a common format for exchanging raster (bitmapped) images between application programs, including those used for scanning images.

Virus

A virus is a piece of programming code inserted into other programming to cause some unexpected and, for the victim, usually undesirable event. Viruses can be transmitted by downloading programs from infected sites (including internet sites) or they may be present on a diskette received from an infected system.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 7 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 127 on 17 August 2005.

See also:

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Practice Note SC Eq 3 Supreme Court Equity Division – Commercial List and Technology and Construction List
Supreme Court Rules 1970

Amendment history:

PRACTICE NOTE SC GEN 8

Supreme Court – Admission and enrolment under the Mutual Recognition Act 1992 (Cth)

Commencement

12. This Practice Note commences on 17 August 2005.

Application

13. This Practice Note applies to all applications to the Court for mutual recognition as a barrister or solicitor in NSW. A separate application will also be required to the Law Society of NSW or the NSW Bar Association under the Act.

Definitions

14. In this Practice Note:

Act means the Mutual Recognition Act 1992 (Cth)

SC Act means the Supreme Court Act 1970

SCR means the Supreme Court Rules 1970

State means an Australian State and includes the Australian Capital Territory and the Northern Territory.

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

15. The above Act allows a person, who is registered for an occupation in a State to which the Act applies, to obtain registration for the equivalent occupation in any other State to which the Act applies.

Filing of notices and other documents

5. The following documents must be filed at the Court:

- a notice under the Act, incorporating a statutory declaration under the Statutory Declarations Act 1959 of the Commonwealth. The applicant and the person taking the declaration should sign the notice at the end of each page;
- an Oath of Office; and
- an affidavit of service.

16. Sample documents of the Notice, Statutory Declaration and Oath of Office are attached as annexures. These samples are designed for routine cases. In cases having unusual aspects, applicants should consult the SC Act, UCPR and the SCR in the same way as any party involved in proceedings in the Court.

Service of notices and other documents

17. The Court rules require service of the notice on the Legal Practitioners Admission Board, the New South Wales Bar Association, and the Law Society of New South Wales. These bodies may be served with the notice on, or prior to, the day of filing the notice. An affidavit of service of the notice on these bodies must be filed with, or within 14 days of filing, the notice.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 8 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 82 on 17 August 2005.

See also:

Supreme Court Act 1970

Supreme Court Rules 1970, particularly:

- Part 1, rule 8
- Part 61
- Part 65C, rule 4

Uniform Civil Procedure Rules 2005, particularly:

- Rules 4.2-4.7 and 4.10
- Rules 10.5 and 10.20-22
- Rule 10.27

Amendment History:

ANNEXURE 1

NOTICE UNDER THE MUTUAL RECOGNITION ACT 1992 (COMMONWEALTH)

COURT DETAILS

| | |
|-------------|----------------------------------|
| Court | Supreme Court of New South Wales |
| Registry | Sydney Registry |
| Division | Common Law Division |
| Case number | |

APPLICANT

The Application of: Peter John Smith

FILING DETAILS

| | |
|---------------------|--|
| Filed for | Peter John Smith |
| Address for service | 5 Main Street Brisbane Queensland 4000 |

1. I, PETER JOHN SMITH, seek admission and enrolment as a legal practitioner of the Supreme Court of New South Wales in accordance with the mutual recognition principle.
 2. My residential address is 1 Station Street Brisbane 4000 and my business address is 5 Main Street Brisbane 4000.
 3. In this notice, unless the subject matter otherwise requires, each of the following expressions has the same meaning which it has in the Mutual Recognition Act 1992 of the Commonwealth ("the Act"):
 - "equivalent";
 - "mutual recognition principle";
 - "occupation";
 - "registration";
 - "State"; and
 - "substantive registration".
 4. The information contained in this paragraph is given pursuant to section 19(2)(a) of the Act. On dd/mm/yy I was admitted as a barrister [or solicitor or solicitor and barrister or legal practitioner] of the Supreme Court of Queensland and my name is entered on the roll of barristers [or as the case may be] kept by or on behalf of that Court.
 5. I certify that the document annexed hereto and marked with the letter "A" is the original [or a complete and accurate copy of the] instrument evidencing my admission and enrolment referred to in paragraph 4. Annexed hereto and marked with the letter "B" is a certificate complying with Part 65C, rule 4(2)(f) of the Supreme Court Rules 1970.
 6. I have substantive registration in the following State(s) for the occupation(s) equivalent to the occupation referred to in paragraph 4 – [List the other State(s)]
- OR
- I do not have substantive registration in any other State for the occupation equivalent to the occupation referred to in paragraph 4.
7. I am not the subject of disciplinary proceedings, or any preliminary investigations or action that might lead to disciplinary proceedings, in any State in relation to any occupation referred to in paragraph 4 [or paragraphs 4 or 6] (a "relevant occupation").

8. My registration for any relevant occupation in any State is not cancelled or currently suspended as a result of disciplinary action.
9. I am not otherwise personally prohibited from carrying on any relevant occupation in any State, and I am not subject to any special conditions in carrying on any relevant occupation, as a result of criminal, civil or disciplinary proceedings in any State.
10. I am not subject to any special conditions in carrying on any relevant occupation in any State.

OR

I am subject only to the following special conditions in carrying on any relevant occupation in any State – [state special conditions and the State(s) where they apply]

11. I consent to the making of enquires of, and the exchange of information with, the authorities of any State regarding my activities in the relevant occupation [or occupations], or otherwise regarding matters relevant to this notice.

ANNEXURE 2

STATUTORY DECLARATION

Details of applicant

Family name

Given names

Address for service

Phone

Fax

Email

Details of applicant's legal representative (if represented)

Solicitor on the record

Practising certificate number

Firm

Address

Telephone

Fax

Email

I, Peter John Smith, of 1 Station Street, Brisbane, in the State of Queensland, barrister, do solemnly and sincerely declare that the statements and other information contained in the above notice, signed for identification on every page by me and by the person before whom this declaration is made, are true and correct in every particular.

And I make this solemn declaration by virtue of the Statutory Declarations Act 1959, and subject to the penalties provided by that Act for the making of false statements in Statutory Declarations, conscientiously believing the statements contained in this Declaration to be true in every particular.

[signed]
P J Smith

Declared at Brisbane the xth day of mm/yy.

Before me,

[signed]

M Jones

A Justice of the Peace

Reg. No.

[or as the case may be]

ANNEXURE 3

OATH OF OFFICE

COURT DETAILS

Court Supreme Court of New South Wales
Registry Sydney Registry
Division Common Law Division
Case number

APPLICANT

The Application of:

FILING DETAILS

Filed by

I, PETER JOHN SMITH of 1 Station Street, Brisbane, in the State of Queensland, do swear [or solemnly, sincerely and truly declare and affirm] that if I am enrolled as a legal practitioner by the Supreme Court of New South Wales I will truly and honestly conduct myself in the practice of a legal practitioner of the Supreme Court of New South Wales and I shall faithfully serve as such in the administration of the laws and the usages of that State according to the best of my knowledge, skill and ability.

SO HELP ME GOD [or I DO]

[signed]
P J Smith

CERTIFICATE

I, Eric Black of 1 High Street, Brisbane, in the State of Queensland, certify that I duly administered the above oath on dd/mm/yy.

[signed]
E Black
Registrar of the Supreme Court of Queensland

PRACTICE NOTE SC GEN 9

Supreme Court – Appointment of examiners outside NSW: procedures for practitioners

Commencement

18. This Practice Note commences 17 August 2005.

Application

19. This Practice Note applies to new and existing civil proceedings in the Common Law Division and the Equity Division.

Definitions

20. In this Practice Note:

CEO means Chief Executive Officer and Principal Registrar of the Supreme Court

SCR means the Supreme Court Rules 1970

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

21. The purpose of this Practice Note is to set out the procedures to be followed when an examiner is to be appointed by the Court to take evidence outside NSW.

Making an application

22. An application to appoint a judge or master as examiner for the purpose of taking evidence interstate or overseas is made by notice of motion under the UCPR and SCR.

23. The notice of motion will address the following matters:

- that a judge, master or other officer of the court be appointed an examiner pursuant to the rules;
- that witnesses (usually named), be examined before a judge of the court in a specified place (in another state or overseas);
- that the parties (if appropriate) arrange accommodation for the conduct of each examination and for transcription facilities;
- that the costs and expenses of, and incidental to, the examinations be borne in the first instance equally by the parties, and subject to any order of the trial judge, be treated as part of the general costs of the proceedings;
- specifying that the examination order is conditional upon the payment into Court of an amount, to be subsequently determined, as provision for expenses of the examiner and staff in relation to the examination, when so ordered by the Court; and
- such other orders as are appropriate.

24. If the evidence is to be taken overseas, the supporting affidavit should address the following issues:

- whether or not each witness is an Australian citizen; and
- whether or not each witness is to give evidence voluntarily.

25. The application is referred to the relevant chief judge who will consult with the Chief Justice. If both judges concur, the orders will be made and the chief judge will nominate a judicial officer to be appointed examiner in the proceedings.

Notifying heads of jurisdiction and government

26. Once the Chief Justice has approved the taking of evidence overseas or interstate, the following letters are prepared and sent by the Court. Further letters may be necessary to confirm dates.

| <i>Sender</i> | <i>Recipient</i> | <i>Reason</i> |
|---------------|---|---|
| Chief Justice | Counterpart in overseas or interstate jurisdiction | To obtain permission for the judicial officer to examine witnesses in that jurisdiction |
| CEO | Department of Foreign Affairs and Trade | Where there is to be an overseas examination, to ensure that the relevant government authorities are informed and all approvals are sought, including approval for the examiner to administer an oath or affirmation. |
| CEO | Relevant court administrator in overseas or interstate jurisdiction | To obtain courtroom or chamber accommodation, if required. |

Determining the amount of travel expenses

27. For interstate examinations, the usual government travel arrangements are applied.

28. For overseas examinations, travel expenses are determined by the relevant chief judge or delegate. Generally, only one staff member travels with the examiner on overseas

examinations. The parties should prepare a projection of costs (see annexure 1), including:

- appropriate class, route and dates for air travel (in accordance with Government policy, fully refundable tickets are purchased);
- three options (if possible) for hotel accommodation; and
- a daily allowance to cover meals and incidentals.

Making payments into Court

29. Once the amount of travel expenses is determined, an order should be sought, specifying the amount to be paid into Court and the timeframe for doing so. When received, payments are placed in the court's trust account. If the CEO considers that the amount ordered to be paid is insufficient to provide for the expenses, the rules provide the mechanism for obtaining an order for payment of a further amount into court. It also provides for suspension of the operation of the examination order until payment is made.

Reconciling expenses

30. When the examination is complete, the expenses are reconciled. Any outstanding money paid into court will then, subject to any order by the court, be refunded (in the same proportions as their respective payments into Court) to the parties.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 9 was issued and commenced on 17 August 2005.

See also:

Part 24.3, Uniform Civil Procedure Rules 2005

Part 75, rule 3C, Supreme Court Rules 1970

Amendment History:

ANNEXURE 1

Proposed travel expenses for the examiner and staff member

| | | <i>Judge</i> | <i>Staff member</i> |
|---------------------------|--|--------------|---------------------|
| Venue for taking evidence | City, country | | |
| Air travel | Class of travel | | |
| | Route | | |
| | Proposed dates of departure and return | | |
| Accommodation | Daily rate – hotel | | |
| | Option 1 | | |
| | Option 2 | | |
| | Option 3 | | |
| Meals and incidentals | Daily rate | | |
| Other expenses | Specify | | |

PRACTICE NOTE SC GEN 10

Supreme Court – Single Expert Witnesses

Commencement

1. This Practice Note commences on 17 August 2005.

Application

2. This Practice Note applies to all proceedings commenced after its commencement in which a claim is made for damages for personal injury or disability.
3. This Practice Note does not apply to the Criminal List of the Common Law Division.

Definitions

4. Single expert witness means an expert witness jointly retained by the parties or appointed by the court pursuant to this practice note.

Single expert direction is the direction referred to in paragraph 7 of this practice note.

Purpose

5. The purpose of this Practice Note is to prescribe the procedures surrounding the use of single expert witnesses in the Court.

Single Expert Witnesses

6. Unless cause is otherwise shown, a single expert direction will be made in every proceeding and at the earliest practicable time in the course of case management.
7. A “single expert direction”, when made in those terms, means that the following directions are to be taken as having been made, with such variations as may be specified at that time or subsequently:
 - a. Any expert evidence is confined to that of a single expert witness in relation to any one head of damages, including but not limited to the nature, extent and cost of required nursing care or domestic care (including claims under *Griffiths v Kerkmeyer* and under *Sullivan v Gordon*), physiotherapy, speech therapy, home modification, motor vehicle or aids and equipment, being evidence of the kind customarily given (by way of example) by rehabilitation consultants, occupational therapists, nursing and domestic care providers, architects, builders, motor vehicle consultants, and by aids and equipment suppliers.
 - (a) Evidence may be provided by the same single expert in relation to more than one head of damages provided the expert is appropriately qualified. It is contemplated, however, that there may be a number of single expert witnesses retained or appointed in the one proceedings.
 - (b) In relation to any head of damages as to which any party wishes expert evidence to be adduced, the parties are to agree on a single expert to be retained and are to obtain the concurrence of the expert within 14 days from a date specified in the order as the commencement date of the direction, otherwise within 14 days from the making of the direction.
 - (c) Failing agreement and concurrence within that time, the parties are to notify the court forthwith, and the court will, pursuant to Pt 39, appoint a court expert to be the single expert.
 - (d) Within 14 days from the selection or appointment of a single expert witness, the parties are to brief the expert, in such manner as the parties may agree, with

materials sufficient to enable the expert to prepare a report. If the parties do not so agree, they are to notify the court forthwith and the court will give directions as to how the single expert witness is to be briefed.

- (e) If the parties agree or the single expert witness so requests, the plaintiff in the proceedings is to submit to clinical examination by the single expert witness.
 - (f) Within 21 days from the date on which a single expert witness is so briefed, the expert is to send his or her report to each of the parties to the proceedings, through their legal representatives.
 - (g) A single expert witness may be requested to provide a supplementary report taking into account any new or omitted factual material. The provisions of this practice note apply to such a supplementary report *mutatis mutandis*.
 - (h) Any party may, within 14 days from receipt of the report, put a maximum of 10 written questions to the expert, but for the purpose only of clarifying matters in the report unless the court otherwise grants leave. The expert is to answer the questions within 14 days.
 - (i) The report of a single expert witness and any question put to the expert and the expert’s answer thereto may be tendered by any party at the trial subject to all just exceptions.
 - (j) A single expert witness may be cross-examined at the trial by any party.
 - (k) A single expert witness’s fee for preparation of the report and any supplementary report and for attending court, if required to do so, is to be paid by the parties equally, subject to other agreement or direction and subject to any later order concerning the costs of the proceedings. A single expert witness’s fee for answering questions put by a party is to be paid by the party, subject to the same qualification.
 - (l) A single expert witness may apply to the court for directions.
8. Nothing in this practice note is intended to require the retaining or appointment of a single expert witness in relation to liability, the nature or extent of injury or disability, or the causation of injury or disability.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 10 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 120 on 17 August 2005.

PRACTICE NOTE SC GEN 11

Supreme Court – Joint Conferences of Expert Witnesses

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to all civil appeals and proceedings before the Court. This Practice Note does

not apply to proceedings in the Court of Criminal Appeal or criminal proceedings in the Common Law Division.

Definitions

3. In this Practice Note:

Code means Schedule 7 to the Uniform Civil Procedure Rules 2005

SCR means the Supreme Court Rules 1970

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

4. The objective of this Practice Note is to facilitate compliance with any directions of the Court given pursuant to Division 2 of Part 31 of the UCPR.

Objectives of joint conferences

5. The objectives of such directions for a joint conference of experts include the following:

- the just, quick and cost effective disposal of the proceedings;
- the identification and narrowing of issues in the proceedings during preparation for such a conference and by discussion between the experts at the conference. The joint report may be tendered by consent as evidence of matters agreed and/or to identify and limit the issues on which contested expert evidence will be called;
- the consequential shortening of the trial and enhanced prospects of settlement;
- apprising the Court of the issues for determination;
- binding experts to their position on issues, thereby enhancing certainty as to how the expert evidence will come out at the trial. (The joint report may, if necessary, be used in cross-examination of a participating expert called at the trial who seeks to depart from what was agreed); and
- avoiding or reducing the need for experts to attend court to give evidence.

Preparing for a conference

6. The parties should agree on the following matters:

- the experts to attend;
- the questions to be answered; and
- the materials to be placed before the experts.

7. The experts to attend should be those specified in the Court's order. If none are so specified, the parties should arrange for experts to attend who have expertise pertinent to the questions to be asked. Separate conferences may be required between experts in different specialities in relation to different issues arising in the case.

8. The questions to be answered should be those specified by the Court or those agreed by the parties as relevant and any other question which any party wishes to submit for consideration.

9. The questions to be answered should be framed to resolve an issue or issues in the proceedings. If possible, questions should be capable of being answered Yes or No, or (if not) by a very brief response.

10. The materials to be provided to each of the participating experts should include:

- the Code;

- this Practice Note;
- an agreed chronology, if appropriate;
- relevant witness statements or, preferably, a joint statement of the assumptions to be made by the experts, including any competing assumptions to be made by them in the alternative (which should be specified clearly as such);
- copies of all expert opinions already exchanged between the parties and all other expert opinions and reports upon which a party intends to rely; and
- such records and other documents as may be agreed between the parties or ordered by the Court.

11. The participating experts should each be provided, in advance, with the questions and materials referred to in paragraphs 8, 9 and 10.

Convening a conference

12. Subject to any directions given by the Court concerning the range of dates for the convening of the conference, the parties should communicate amongst themselves to fix a mutually convenient date, time and place for the conference.

13. The conference should take the form of a personal meeting. Alternatively the participants may choose to hold the conference by teleconference, videolink or similar means if a personal meeting is not practicable.

14. The experts should be given a reasonable opportunity to prepare for the conference by ensuring that before the conference the experts have:

- an opportunity to seek clarification from the instructing lawyers or the Court concerning any question put to them, and
- access to any additional materials which the parties are able to provide and which the experts consider to be relevant.

15. In order to enable the experts to have a reasonable opportunity to prepare for the occasion, the conference should not take place until the expiration of at least 14 days following the provision of the materials referred to in paragraph 11.

The role of experts at a conference

16. The experts should provide their respective opinions in response to the questions asked based on the witness statements or assumptions provided. Where alternative assumptions are provided the experts should provide their respective opinions on the alternative assumptions.

17. The experts may specify in their report other questions which they believe it would be useful for them to consider.

18. Pursuant to paragraph 4(2) of the Code, an expert witness must exercise his or her independent, professional judgment in relation to such a conference and joint report, and must not act on any instruction or request to withhold or avoid agreement. An expert should not assume the role of advocate for any party during the course of discussions at the joint conference. If, for whatever reason, an expert is unable to reach agreement with the other experts on any matter, that expert should be free to express his or her disagreement with the other experts on that matter.

19. The experts should accept as fact the matters stated in witness statements or assumptions submitted to them.

It is not their role to decide any disputed question of fact or the credibility of any witness. Where there are competing assumptions to be made in the alternative, alternative answers may have to be provided to a question or questions, specifying which of the assumptions are adopted for each answer.

Conduct of the conference

20. The conference should be conducted in a manner which is flexible, free from undue complexity (so far as is practicable) and fair to all parties.
21. The participating experts may appoint one of their number as a chairperson. If one of them so requests and the parties agree or the court orders, some other person may be appointed to act as chairperson.
22. Secretarial or administrative assistance should be provided by the parties if so requested by the experts.
23. If the participating experts agree, one of them or a secretarial assistant may be appointed to make a note at the conference of matters agreed, matters not agreed and reasons for disagreement.
24. The conference may be adjourned and reconvened as may be thought necessary by those participating.

Joint report

25. Pursuant to UCPR Rule 31.25 and paragraph 4 of the Code, the report should specify matters agreed and matters not agreed and the reasons for non agreement.
26. The joint report should, if possible, be signed by all participating experts immediately at the conclusion of the conference and, otherwise, as soon as practicable thereafter.
27. Prior to signing of a joint report, the participating experts should not seek advice or guidance from the parties or their legal representatives except as provided for in this Practice Note. Thereafter, the experts may provide a copy of the report to a party or his or her legal representative and may communicate what transpired at the meeting in detail if they wish.
28. The report of the joint conference should be composed by the experts and not the representatives of the parties. The report should be set out in numbered paragraphs and should be divided into the following sections:
 - statement of agreed opinion in respect of each matter calling for report;
 - statement of matters not agreed between experts with short reasons why agreement has not been reached;
 - statement in respect of which no opinions could be given e.g. issues involving credibility of testimony;
 - any suggestion by the participating experts as to any other matter which they believe could usefully be submitted to them for their opinion; and
 - disclosure of any circumstances by reason of which an expert may be unable to give impartial consideration to the matter.
29. The joint report, when signed by all participating experts, should be forwarded to the Court.

Role of legal representatives

30. Legal representatives who attend a conference pursuant to an order of the Court or who are approached for advice or guidance by a participating expert should respond jointly

and not individually, unless authorised to do so by the legal representatives for all other parties with an interest in the conference.

31. Such advice or guidance may be provided by:

- responding to any questions in relation to the legal process applicable to the case;
- identifying relevant documents;
- providing further materials on request; and
- correcting any misapprehensions of fact or any misunderstanding concerning the conference process.

32. The legal representatives of the parties should perform any other role the Court may direct.

Provision of information

33. The legal representatives of the parties should inform the associate of the judge who directed the conference of the date of a conference when arranged, the names of the participating experts and the questions submitted.
34. It is not intended that the joint report provided to the Court or that information provided to the Court concerning a conference will be evidence in the proceedings unless admitted into evidence in the ordinary way (that is, by consent or by tender subject to the SCR and the rules of evidence).

Further directions

35. Pursuant to UCPR Rule 31.25(2), an expert directed to confer may apply to the Court for further directions. That may be done, at the expert's election, by arrangement with the associate of the judge who directed the conference. A party may also apply for further directions in relation to a directed conference.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC Gen 11 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 121 on 17 August 2005.

See also:

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Practice Note SC Gen 3 Supreme Court – Use of technology

Supreme Court Rules 1970

Uniform Civil Procedure Rules 2005

PRACTICE NOTE SC CA 1

Court of Appeal – General

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to new and existing applications to be heard by the Court of Appeal.

Definitions

3. In this Practice Note:

Rules means the Supreme Court Rules 1970

Introduction

4. The purpose of this Practice Note is to:

- assist practitioners and litigants to prepare and file appeal documents in compliance with the Rules, and
- explain the case management procedures employed in the Court of Appeal.

Preparing documents**Preparing Written Submissions generally**

5. In addition to the Rules governing preparation of written submissions in appeals, all submissions are to be included in the Orange Appeal book (Part 51 rr 44 and 46 for appeals).
6. Written submissions in applications for leave to appeal should be prepared in line with Part 51 rr4B – 4C of the Rules (summary of Claimant/Opponent's argument).

Written Submissions In Appeals Concerning Damages In Personal Injury Matters

7. In addition to the provisions under Part 51 r46(3), written submissions in appeals against damages in personal injury cases, whether or not liability is also in issue, should include:
- the grounds of appeal which will be argued; and
 - in respect of any finding of fact by the primary judge which is challenged:
 - the finding of fact which is challenged;
 - in narrative form the findings of fact which it is argued the Court of Appeal should make in substitution for the finding challenged;
 - the evidence and references to transcript which support such substituted finding of fact; and
 - where appropriate, a recalculation of financial loss including precise particulars of claims made for components of the judgment which require mathematical calculation, such as wage loss and claims for interest.
8. The submissions should be in a form suitable for use by the Court in the delivery of an ex tempore judgment.

Chronology

9. The paragraphs below supplement the provisions in the Rules concerning filing chronologies (see Part 51 r45) of the Rules.
10. Part 51 r44 requires the appellant to file a chronology with the submissions. This chronology must be served on each other party the appeal.
11. Part 51 r44 permits any other party to the appeal who regards the appellant's chronology as inadequate or inaccurate to file an alternative or supplementary chronology. This chronology must be served on each other party the appeal.
12. All chronologies must be included in the Orange Appeal book (Part 51 rule 35A).
13. The chronology should be an objectively correct statement of 'the principal events leading up to the litigation' and should not be a chronology merely of those matters of assistance to one party or the other: *Woods v Harwin*

(CA(NSW), Mahoney AP, Clarke and Meagher JJA, 5 November 1993, unreported.)

14. The following is the suggested form for chronologies to be used in appeals:

APPELLANT'S (or RESPONDENT'S) CHRONOLOGY

| <i>Date</i> | <i>Event</i> | <i>Appeal Book & Page No.</i> |
|-------------|--|-----------------------------------|
| 22.09.1981 | Arrangements in Wagga between Smith and Co for financing of wheat purchases | Black at 62 |
| 23.11.1982 | First request by Brown to Smith and Co for drawdown to pay for wheat purchases | Black at 71 |
| 30.11.1982 | Telex Smith and Co to Brown re above | Blue at 15 (Exhibit 5) |
| 01.12.1982 | "Warehouse receipt" from Jones to Smith and Co | Blue at 18 (Exhibit D) |
| 07.12.1982 | Telex Brown to Smith and Co requesting drawdown to pay for further wheat | Blue at 20 (Exhibit 6) |
| 06.01.1983 | Letter Jones to Smith and Co concerning method of carrying out financial arrangements for barley | Blue at 12 (Exhibit 7) |
| 07.01.1983 | Internal memorandum of Smith and Co re meeting Allen in Wagga | Blue at 22 (Exhibit 8) |

Lists of Authorities

15. The following paragraphs:

- set out the requirements for lists of authorities as referred to in Part 51 r4B(3)(h), Part 51 r4C(2)(b)(v) and (5)(h); and
- aim to avoid the unnecessary provision of law reports and other material to the Judges of Appeal, and to ensure, where materials are provided, that the copies are identical.

16. Lists of authorities may be filed separately, in addition to any list of authorities already included in the White folder (whether by claimant or opponent) or in the Orange Appeal book.

17. Lists of authorities must be filed not later than 10am on the working day before the hearing.

18. A list of authorities shall:

- indicate with an asterisk no more than five reported cases that the party expects will be referred to at some length and which the judges will need to have available in Court to follow the argument; and
- for each piece of legislation requested, indicate the dates at which that legislation is said to be applicable; and
- attach photocopies of the relevant pages if a reference is proposed to any of the following:
 - an unreported case;
 - interstate or overseas legislation;
 - a textbook;
 - a loose leaf service;
 - a journal article; and/ or
 - a second reading speech or other legislative history; and

- where a party expects to refer at some length to more than the five reported cases asterisked, and a copy has not otherwise been provided, photocopies of the additional cases (or relevant parts thereof).
19. Where the list of authorities is included in the White folder (whether by the claimant or the opponent), the associated photocopies may be filed as a separate bundle or included in the folder. Photocopies to be included in the white folder must be hole punched and referred to in the Index.
 20. Where the list of authorities is included in the Orange Appeal book, the associated photocopies shall be filed as a separate bundle.
 21. Where a party submits a supplementary list of authorities, if photocopies have already been provided with an earlier list of authorities, further photocopies need not be provided. The supplementary list should indicate the material that has previously been provided to the Court.
 22. Application may be made to the President, through the President's Associate, for leave to:
 - hand up additional cases and/or materials in court;
 - submit a list of authorities later than the time referred to above; and
 - in exceptional cases, and in good time before the hearing, mark additional reported cases with an asterisk on the applicant's list.
 23. All lists of authorities shall contain a clear indication of the name and telephone contact of the counsel, solicitor or party providing the list to the Court. This applies whether or not the list of authorities appears in the White folder or in the Orange Appeal book.
- Filing documents**
- Numbers of copies to be filed**
24. The following paragraphs supplement the Rules. Practitioners should note in particular Part 51 r4B, Part 51 r37, Part 51 r48. In addition to these rules, the Registrar may make a direction under Part 51 r54 as to the number of copies to be filed.
 25. An appellant filing a notice of appeal shall lodge with the copies for sealing and service, six additional copies.
 26. The documents referred to in Part 51 r4C must be filed in triplicate.
 27. Lists of authorities must be provided in triplicate.
 28. Where no Rule, practice note, or other order is applicable, only one copy of a document should be filed.
- Manner of Filing Of Written Submissions, Chronology And Associated Documents**
29. Part 51 r47 deals with the filing of submissions and chronologies in appeals generally, which in the normal course of events will be filed in the Registry on Level 5 well before the hearing date. For applications for leave to appeal, Part 51 rr4B and 4C deal with the filing of White folders/material for inclusion in the White folder, which is to be filed in the Registry with the summons/response.
 30. The following paragraphs apply to written submissions, chronologies, lists of authorities, narrative of facts and other documents of an argumentative nature not already included in the Orange Appeal book.
 31. Where a matter is to be heard in the next seven days, is currently being heard, or has already been heard, all original and copy of the following documents shall be filed or lodged by placing them in the locked box labelled "Appeal Submissions," provided on Level 12 of the Law Courts Building:
 - written submissions;
 - chronologies;
 - lists of authorities;
 - narrative of facts;
 - supplementary submissions provided with the leave of the Court; and
 - other documents of an argumentative nature.
 32. All other submissions are to be filed in the Registry on Level 5.
 33. Evidence shall not be placed in the submissions box.
 34. Where the matter is currently being heard or has already been heard, the bench shall be identified on documents lodged or filed in the submissions box.
 35. The submissions box will be cleared at least daily and the contents stamped with the date of receipt and distributed to the judges assigned to the appeal in question.
 36. Documents may be provided by facsimile directed to the Court of Appeal where:
 - a barrister or solicitor for a party who desires to file written submissions does not have an office within three kilometres of the General Post Office, Sydney;
 - leave of the Court has been given for filing documents by facsimile; or
 - in other cases of urgent necessity.
- The facsimile number is to be found at the website www.lawlink.nsw.gov.au/sc.
- Motions**
- Motions List and Referrals**
37. An interlocutory application by summons, notice of motion or otherwise, will be listed in the Motion List before the Registrar on a motion day, a Monday unless otherwise ordered, at 9.45 am. The parties should expect that it will proceed on the return date.
 38. At 9:45 am the Registrar will commence to call over all matters in the list.
 39. Applications for the following may be dealt with by the Registrar:
 - consent orders;
 - extensions of time;
 - competency of appeals;
 - security for costs; and
 - non-compliance with directions.
 40. The following applications will be assigned to the Referrals Judge for hearing:
 - expedition of the hearing of proceedings, where there is no consent;
 - stays of judgments/injunctive orders, which are opposed; and
 - other matters as determined.

41. Where a legal representative is aware that a matter has settled or is not to proceed on the motion day, the representative shall inform the Registrar as soon as practicable. If the Registrar cannot be contacted, the President's Associate should be contacted.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CA 1 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note Nos. 22, 42, 65, 74 and 77 on 17 August 2005

See also:

Practice Note SC Gen1 Supreme Court – Application of Practice Notes

Supreme Court Rules 1970

Amendment history:

PRACTICE NOTE SC CCA 1

Court of Criminal Appeal – General

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to new and existing matters in the Court of Criminal Appeal.

Definitions

3. In this Practice Note:

Rules means the Criminal Appeal Rules

Introduction

4. The purpose of this Practice Note is to explain the administrative and case management procedures followed in the Court of Criminal Appeal.

Lodging Notices of Intention to Appeal against a Conviction or Sentence

5. Any person intending to appeal against a conviction or sentence may deliver, send or facsimile a Notice of Intention to Appeal (Form IVA in the Rules) to the Registrar. The Registrar will acknowledge receipt of every notice lodged. The Registrar will require the intending appellant to provide information as to legal representation and an address to which a copy of the transcript and exhibits from the proceedings in the Court of Trial may be forwarded.

6. The Proper Officer of the Court of Trial, upon the request of an intending appellant, or the solicitor acting for the intending appellant, will arrange for the supply of a copy of the transcript and exhibits from the trial and/or sentence proceedings.

7. Details of the Proper Officers of the relevant Courts of Trial are:

Supreme Court

- For copies of exhibits, Remarks on Sentence, Judgments, and any Summing Up to the Jury:
The Registrar
Supreme Court Criminal of Criminal Appeal Registry

Level 4 Law Courts Building
Queens Square
SYDNEY NSW 2000
(DX 829 SYDNEY)

- For copies of transcripts:
The Manager
Reporting Services, Attorney Generals Department
Goodsell Building, Chifley Square
Sydney 2000
(DX 1227 Sydney)

Land and Environment Court

- For copies of transcripts and exhibits:
The Registrar
Land and Environment Court
225 Macquarie Street
SYDNEY NSW 2000
(DX 264 SYDNEY)

District Court

- For copies of exhibits:
The Registrar
District Court Criminal Registry
Level 3 Downing Centre
143-147 Liverpool Street
SYDNEY NSW 2000
(DX 11518 SYDNEY DOWNTOWN)
- For copies of transcripts, Remarks on Sentence, Judgments, and any Summing Up to the Jury:
The Manager
Reporting Services, Attorney Generals Department
Goodsell Building, Chifley Square
Sydney 2000
(DX 1227 Sydney)

Drug Court

- For copies of transcripts and exhibits:
The Registrar
Drug Court of New South Wales
Court House
PARRAMATTA NSW 2150
(PO Box 92
PARRAMATTA NSW 2124)

8. Following receipt of a copy of the transcript and exhibits, the solicitor for an intending appellant should promptly arrange for a determination of merit to be obtained, and then seek instructions as to whether an appeal is to proceed.

Extension of the effect of a Notice of Intention

9. A Notice of Intention has effect for six months from the date of lodgement. An application for extension of time may be delivered, sent or facsimiled to the registrar (Form VF in the Rules). The application should set out the reasons for extension, and identify any difficulties in the receipt or preparation of documents for the purposes of the intended appeal.

Lodging an appeal.

10. If an appeal is to proceed, at least four copies of the notice of appeal or a notice of application for leave to appeal (as the case may be) must be lodged with or sent to the Registrar. The notice must be accompanied by the documents specified in Rule 23C of the Rules, namely, a Statement Nominating Legal Representation, the Grounds of Appeal, the Submissions in support of the appeal, and

a Certificate stating that all transcripts and exhibits are available from the Proper Officer of the Trial Court.

11. Where the effect of a notice of intention has expired, an application for extension of time to appeal (Form V in the Rules) must be lodged with the notice of appeal or notice of application for leave to appeal.
12. The notice will be registered and the appeal listed for callover before the Registrar where a hearing date will be allocated.
13. In urgent appeals, the Registrar may waive or relax the requirements of Rule 23C.
14. If a decision is taken not to pursue an appeal or application for leave to appeal after a notice of intention has been given, no further documents need be sent to the Registrar; the effect of the notice of intention will lapse after 6 months (or if the effect of a notice has been extended, after that further extension).
15. The overall effect of the giving of a notice of intention to appeal is to facilitate the obtaining of necessary transcripts, exhibits and other documents so that a decision may be taken as to whether an appeal or application for leave to appeal should be instituted, and to ensure that, when instituted, all material is available to enable the expeditious listing and determination of the appeal or application.

Filing written submissions

16. The following paragraphs detail the procedures for filing written submissions in relation to matters in the Court of Criminal Appeal.

Direction to file written submissions

17. The Registrar, when fixing a date for the hearing of an appeal or applications, will direct both the appellant or the applicant (as the case may be) and the respondent to file and serve written submissions on or before particular dates prior to that hearing. In appeals against conviction, or applications for leave to appeal against sentence, ordinarily the appellant's or applicant's submissions will have been filed with the notice of appeal or notice of application for leave to appeal, pursuant to clause 23C of the Rules.
18. The party filing written submissions shall lodge at least four copies of the submissions with the Registrar.

Written submissions in an appeal against conviction

19. In an appeal against conviction, the submissions by both the appellant and the Crown shall contain:
 - a brief statement in narrative form of the Crown case and of the case raised or put forward by the appellant at the trial;
 - an outline of the argument to be put in relation to each ground of appeal with:
 - the terms of that ground of appeal set out in full;
 - page references to the transcript relating to any evidence referred to; and
 - appropriate citations of authority relied upon for the propositions of law stated (including, where appropriate, page references);
 - and a separate list of any authorities to which it is expected that the members of the Court may have to turn during the argument.

20. In an appeal against conviction the Crown shall file an index to the material evidence, a statement in summary form of the evidence of the material witnesses and a list of exhibits.

Written submissions in applications for Leave to Appeal Against Sentence

21. In an application for leave to appeal against sentence, the applicant's submissions shall contain:
 - a brief statement in narrative form of the Crown case which led to the conviction, but only where such case is not sufficiently apparent from the sentencing judge's remarks on sentence;
 - a statement of the particular objections to the sentence and to the reasons of the sentencing judge which are to be argued;
 - a brief statement of the argument as to why leave to appeal should be granted; and
 - a separate list of any authorities to which it is expected that the members of the Court may have to turn during the argument.
22. The Crown need not file written submissions in relation to applications for leave to appeal against sentence, but it may do so, and it should do so if it is suggested that there is some significant error of fact or principle in the applicant's submissions.

Written submissions in a Crown appeal against sentence

23. In a Crown appeal against sentence, the Crown's submissions shall contain:
 - a brief statement in narrative form of the Crown case which led to the conviction, but only where such case is not sufficiently apparent from the sentencing judge's remarks on sentence;
 - a statement of the particular objections to the sentence and to the reasons of the sentencing judge which are to be argued;
 - a brief statement of the argument as to why the Court should interfere with the sentence imposed (including, if appropriate, details of the range of sentences imposed in other relevant cases);
 - details of when and how the respondent was notified of the Crown's intention to appeal; and
 - a separate list of any authorities to which it is expected that the members of the Court may have to turn during the argument.
24. The respondent need not file written submissions in relation to Crown appeals, but may do so, and should do so if it is suggested that there is some significant error of fact or principle in the Crown's submissions.

Other Appeals Which Are Not Rehearings

25. In cases stated for the determination of the Court and other proceedings in the nature of an appeal which is not a rehearing, the submissions of both parties are to contain:
 - a brief statement in narrative form of the factual background against which the questions are raised for the determination of the Court, but only where that background is not sufficiently apparent from the stated case or from some other document already filed;

- an outline of the argument to be put in support of each question for determination with:
 - the terms of that question set out in full;
 - page references to any transcript relating to any evidence referred to, and appropriate citations of authority relied upon for the propositions of law stated (including, where appropriate, page references); and
 - a separate list of any authorities to which it is expected that the members of the Court may have to turn during the argument.

Appeals by Way of Rehearing

26. In appeals which are to be heard in effect by way of rehearing, the submissions of the appellant are to contain:

- a brief statement in narrative form of the prosecution case and of the case raised or put forward by the appellant at the trial;
- a brief statement in narrative form of the facts which the appellant contends should have been found at first instance;
- an outline of the argument to be put in relation to each ground of appeal with:
 - the terms of that ground of appeal set out in full;
 - page references to the transcript relating to any evidence referred to, and appropriate citations of authority relied upon for the propositions of law stated (including, where appropriate, page references);
 - an index to the material evidence and a list of exhibits; and
 - a separate list of any authorities to which it is expected that the members of the Court may have to turn during the argument.

27. The submissions of the respondent are to contain:

- a brief statement in narrative form of the prosecution case and of the case raised or put forward by the appellant at the trial;
- an outline of the argument to be put in opposition to the appeal, with page references to the transcript relating to any evidence referred to and with appropriate citations of authority for the propositions of law stated (including, where appropriate, page references); and
- a separate list of any authorities to which it is expected that the members of the Court may have to turn during the argument.

Other Applications

28. In other applications, the submissions of the applicant shall contain:

- a brief statement in narrative form of the factual background against which the application is to be determined by the Court, in sufficient detail as to permit the application to be heard by the Court without the need to read any other material;
- a statement as to the orders sought and (if expected that it will be of assistance to the Court) a brief outline of the argument to be put relating to each such order; and
- a separate list of any authorities to which it is expected that the members of the Court may have to turn during the argument.

29. The respondent need not file written submissions in relation to such applications, but should do so where it is expected that they will be of assistance to the Court.

List of Authorities

30. Authorities cited in submissions which are not likely to be needed in Court should not be included in a list of authorities. The list should only include authorities to which it is expected the Court will have to turn to during oral argument.

31. Where reliance is to be placed on an authority which is unreported, the party citing that authority shall attach a copy of the unreported judgment to the list of authorities. An authority published on CaseLaw with a case neutral citation is not considered by the Court to be a reported judgment.

32. Lists of authorities need not be filed at the same time as the written submissions but must be filed not later than one full working day before the hearing.

33. The party filing a List of Authorities shall file at least four copies of the List with the Registrar.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CCA 1 was issued and commenced on 17 August 2005.

This Practice Note replaced Practice Note Nos. 57, 98 & 112 on 17 August 2005.

See also:

Practice Note SC CL1 Supreme Court Common Law Division- General

Practice Note SC Gen1 Supreme Court – Application of Practice Notes

Criminal Appeal Rules

PRACTICE NOTE SC CL 1

Supreme Court Common Law Division – General

Commencement

1. This Practice Note commences on 17 August 2005.

Application

2. This Practice Note applies to all proceedings in the Common Law Division of the Supreme Court.

Definitions

3. In this Practice Note:

Central West District means the district of the State comprising Bathurst, Cowra, Dubbo, Forbes, Lithgow, Mudgee, Orange, Parkes, and Wellington

Northern Rivers District means the district of the State comprising Ballina, Bellingen, Byron Bay, Casino, Coffs Harbour, Dorrigo, Glen Innes, Grafton, Kempsey, Kyogle, Lismore, Macksville, Maclean, Mullumbimby, Murwillumbah, Port Macquarie, Tenterfield, Tweed Heads and Wauchope

Northern Tablelands district means the district of the State comprising Armidale, Narrabri and Tamworth

Riverina District means the district of the State comprising Albury, Cootamundra, Deniliquin, Griffith, Gundagai, Leeton, Narrandera, Temora, Tumut and Wagga Wagga

a List Judge means the Judge appointed by the Chief Justice to be the List Judge of a List (ie. the Administrative Law List, the Defamation List, the Professional Negligence List, the Possession List, or the General Case Management List)

the List Judge means the Judge appointed by the Chief Justice to be the List Judge for the Division

SCR means the Supreme Court Rules 1970

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

4. The purpose of this Practice Note is to outline the case management practices of the Division.

Commencement of Proceedings

5. Proceedings in the Division are commenced by way of Summons or Statement of Claim (see UCPR 6.2, but also see UCPR 6.1). Subject to any other provisions of the SCR, Part 12 rule 2 and Schedule I of SCR determines the Division and the List that a matter is allocated to.

Venue

6. The venue for proceedings in the Division is Sydney.
7. In matters commenced by way of a Statement of Claim, the venue may additionally be the Broken Hill, "Central West District", Goulburn, Newcastle, the "Northern Rivers District", the "Northern Tablelands District", the "Riverina District" or Wollongong.
8. Whilst the Division does not have fixed sittings in country regions, the Court is committed to hearing appropriate cases outside Sydney as required. Where there is sufficient work to hold a sittings of at least one week outside Sydney, the List Judge, with the concurrence of the Chief Judge at Common Law, will list matters at an appropriate venue.
9. Where a party proposes that there are sufficient matters to hold a sittings outside Sydney, that party may contact the Manager, Listings of the Supreme Court to request appropriate consideration by the Court.
10. Where the venue selected by the plaintiff pursuant to UCPR 8.1 is not Sydney, documents may be filed in the Supreme Court registry for that region, or in any registry of the Local Court for that region or venue.

Default Proceedings

11. Proceedings that may be wholly determined by way of the entry of a default judgment are not allocated a Directions Hearing on filing. Instead, the matter proceeds administratively until either a default judgment is entered, the matter is discontinued, consent orders are made, or a defence is filed.
12. Where a defendant files a defence, the Court will allocate a Directions Hearing before the registrar. The matter will then proceed as a defended matter in either the General Case Management List (see Practice Note SC CL 5) or the Possession List (see Practice Note SC CL 6).

Case Management Generally

13. Where proceedings are not "Default proceedings" (or where a defence has been filed in Default proceedings) the proceedings will be allocated a Directions Hearing on filing of the Summons or Statement of Claim (or defence as appropriate) and case managed by a registrar. The registrar sits each weekday at 9am.
 14. At the directions hearing, the presiding registrar will take urgent matters first (commonly known as "referrals"). Where the registrar is satisfied that the matter is urgent, the registrar will refer the proceedings to either the Duty Judge, a List Judge or the Duty Associate Judge as appropriate.
 15. Consent matters will be dealt with before the registrar calls over the remaining list. Parties will be strongly encouraged to discuss matters prior to the Directions Hearing, and have Short Minutes of Order available for handing up.
 16. Where previous directions have not been complied with, parties will be expected to provide an explanation for the delay and must be able to satisfy the registrar that the matter will be able to progress normally. Where the registrar is not satisfied with the explanation, a costs order may be made, or the matter may be referred to a List Judge to show cause.
 17. Matters will not be adjourned generally and in most instances will not be adjourned for lengthy periods of time. In personal injuries actions, where a matter is unlikely to be ready to proceed for a period of time, parties should be able to inform the Court whether a separate hearing on liability can take place prior to the determination of the questions of quantum.
 18. Matters ready for hearing will be listed for call-up before the List Judge.
- ### Strike Out for inactivity
19. Plaintiffs should note the provisions of UCPR 12.8 which provides that the Court of its own motion may make an order dismissing proceedings where a defence or cross-claim is not filed, a default judgment is not entered, or the proceedings are not otherwise disposed of.
 20. The Court cause to be issued a notice to a parties' address for service prior to considering whether a matter will be disposed of under UCPR 12.8. Where there is no response to the notice issued, the Court will determine whether the proceedings should be dismissed in chambers without further notice to the parties.
 21. Upon receipt of the notice, a party may write to the registrar objecting to the disposal of the proceedings under UCPR 12.8. Where the registrar is satisfied that sufficient cause has been shown, an order will not be made. The registrar will usually specify a further period of time of inactivity before the issue of a further show cause notice.
 22. Where the registrar is not satisfied, the registrar will either issue a requisition or list the matter to show cause in open Court. At the show cause, the party concerned will have the opportunity of making further submissions against dismissal.

Mediation

23. The parties should consider whether the matter is suitable for mediation or arbitration. Parties must advise the presiding registrar at an appropriate stage why the matter is not suitable for mediation or arbitration. Parties are reminded that the Court has trained registrar-mediators able to conduct mediations through the Court.
24. Parties should also note the provisions of Practice Note SC Gen 6 which relates to the Alternative Dispute Resolution practices of the Court.

Applications List

25. Applications returnable before the Duty Judge will be listed on Mondays at 9am. The List will be called over by the registrar, who will make consent orders and consider requests for adjournment. Where matters are expected to take more than half a day, the registrar will list the matter before the List Judge at the next Callup.
26. Matters that will take half a day or less to hear, and which are ready to proceed, will be referred by the registrar to the Duty Judge at 10am. At 10am, the Duty Judge will give an indication when the matter is likely to be heard during that week.
27. Existing arrangements for urgent applications to go directly to the Duty Judge will remain unchanged.
28. Urgent stays of execution for writs in the Possession List will continue to be dealt with in chambers by the Duty Registrar.

Progressive Hearing List

29. Matters in the Progressive Hearing List (ie. those matters listed for hearing which do not have a Judicial Officer allocated) will no longer be listed automatically before a registrar on the morning of the hearing. Instead, parties will be required to fax in the details of their appearance to the List Clerk on the afternoon prior to the hearing date. These details will be used to contact parties when a Judicial Officer has been allocated.
30. Where a party has not provided those details to the List Clerk, the List Clerk will list the matter for mention before the registrar at 9am. An appearance is only expected from the parties who have not provided details of their appearance to the List Clerk.
31. A sample form for provision to the List Clerk is available on the Court's website at www.lawlink.nsw.gov.au/sc (or follow this link for the online version).

Callup

32. The List Judge generally sits on the second Friday of each month during term to callup matters that are ready to receive hearing dates. At the callup, the List Judge expects that parties will have instructions on the following matters:
- the available dates of counsel, instructing solicitors and witnesses;
 - a reliable estimate of the length of the hearing;
 - whether there is a need for expedition;
 - whether there are overseas, interstate or country witnesses proposed to be called;
 - whether the matter has been arbitrated or mediated;

- whether the matter should be heard in Sydney, or heard elsewhere; and
- any outstanding issues on which directions are required.

33. Whilst the venue for hearing matters in the Supreme Court is generally Sydney, the Court can and will hear appropriate matters at venues away from Sydney.

Vacating hearing dates

34. All applications to vacate a hearing date must be made immediately upon the party seeking to have the trial date vacated upon becoming aware of the existence of the grounds that will be relied upon in seeking such an order. Where a trial judge has not been allocated, the List Judge will determine the application on a date suitable to the Court.
35. Applications to vacate hearings in the Duty Associate Judge List are considered by the registrar (except on the day of hearing).
36. Applications to vacate should only not be made at the hearing date except for exceptional circumstances.

Standard directions for personal injury claims listed for hearing

37. In a claim for personal injuries, unless the Court otherwise orders, the Plaintiff's legal representative is to prepare a draft chronology of the relevant events in the matter, and serve a copy of it upon the other parties which have an address for service at least 4 weeks prior to the hearing date allocated by the List Judge.
38. Each party is to prepare:
- a draft schedule of damages, outlining in detail the heads of damages, and what damages are likely to be in the event of liability being established; and
 - a draft schedule of issues,
- and serve a copy of it upon the other parties which have an address for service at least 4 weeks prior to the hearing date.
39. A joint chronology, a schedule of damages and a schedule of issues, outlining the areas of agreement and dispute, is to be filed by the plaintiff at least 7 days before the hearing date.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CL 1 was issued and commenced on 17 August 2005.

See also:

Practice Note SC CL 5 Supreme Court Common Law Division – General Case Management List

Practice Note SC CL 6 Supreme Court Common Law Division – Possession List

Practice Note SC Gen1 Supreme Court – Application of Practice Notes

Practice Note SC Gen6 Supreme Court – Mediation
Supreme Court Rules 1970

Uniform Civil Procedure Rules 2005

PRACTICE NOTE SC CL 3

Supreme Court Common Law Division – Administrative Law List

Commencement

1. This Practice Note commences 17 August 2005.

Application

2. This Practice Note applies to proceedings in, or to be entered in, the Administrative Law List.

Definitions

3. In this Practice Note:

List means the Administrative Law List

SCA means the Supreme Court Act 1970

SCR means Supreme Court Rules 1970

UCPR means the Uniform Civil Procedure Rules 2005

Introduction

4. The purpose of this Practice Note is to explain the operation of the List which is provided for by Part 14D of the SCR.
5. The Court exercises both common law and statutory jurisdiction with respect to public bodies and officials. The common law jurisdiction provides for judicial review of the action and decisions of public bodies, officials and various tribunals. The statutory jurisdiction provides for appeals and applications to the Court from the decisions of various tribunals and quasi-judicial bodies.

Judicial review

6. The common law grounds for judicial review have been refined in recent years. They include:
 - "ultra vires" – lack of jurisdiction;
 - lack of procedural fairness;
 - acting under dictation;
 - real or apprehended bias;
 - inflexible application of a policy;
 - taking into account irrelevant considerations;
 - failing to take into account relevant considerations;
 - extraneous (improper) purpose;
 - error of law on the face of the record;
 - no evidence;
 - bad faith; and
 - "Wednesbury" unreasonableness.

Statutory appeals and applications

7. Part 14D rule 1(a)(iv) of the SCR provides that proceedings under sections 65–67 of the Consumer, Trader and Tenancy Tribunal Act 2001 are assigned to the List.
8. Additionally, the matters specified in SCR Schedule I are also assigned to the List. These include matters arising under a number of Acts such as:
 - Administrative Decisions Tribunal Act 1997, ss 118 and 119;
 - Dividing Fences Act 1991, s 19;
 - Freedom of Information Act 1989, s 58A(1);
 - Independent Commission Against Corruption Act 1988;

- Motor Dealers Act 1974, ss 38(2), 38(3B)(a), Part 5A;
 - National Crime Authority Act 1984 (Cth), ss 32, 32A;
 - Ombudsman Act 1974, ss 21A, 35A, 35B;
 - Police Integrity Commission Act 1996;
 - Racial Discrimination Act 1975 (Cth), s 24;
 - Royal Commissions Act 1923, s 18B; and
 - Supreme Court Act 1970, s 70 (ouster of office).
9. As a general rule, all proceedings for review or in the nature of appeals from administrative bodies or administrative decision makers are assigned to the List, but not appeals from the Local Court, whether in committal proceedings, summary jurisdiction or civil claims, or from any other court presided over by a Magistrate, such as the Coroner's Court, Licensing Court or Mining Wardens' Court. Such matters are not assigned to the List.
 10. Notwithstanding SCR Schedule I, proceedings in the nature of appeals from bodies presided over by a Judge (e.g. of the District Court) are not assigned to the List, but to the Court of Appeal (SCA, s 48).
 11. Matters which were formally assigned to the List under the Taxation Administration Act 1996 (e.g. stamp duty, payroll tax and land tax appeals) are assigned to the Equity Division. However, claims for debts under that Act are dealt with in the Common Law Division pursuant to Part 12 rule 1(3), but are not assigned to the List.
 12. Judicial Proceedings with respect to environmental and planning laws are within the exclusive jurisdiction of the Land and Environment Court.
 13. Grounds of appeal and applications from administrative tribunals depend on the terms of the statute setting up the particular tribunal, but invariably include excess of jurisdiction and denial of natural justice, whilst in some cases (e.g. Administrative Decisions Tribunal Appeal Panel and the Consumer, Trader and Tenancy Tribunal) error of law is also available.

Commencing proceedings in the List

14. Proceedings appropriate for the List should be commenced in accordance with UCPR 6.2. Upon commencement, the proceedings are automatically entered in the List pursuant to SCR Part 14D r 2(1). If not so commenced, they may be transferred to that list pursuant to SCR Pt 14D r 2(3) or transferred from another Division pursuant to SCR Pt 14D r 2(4). Proceedings are generally commenced by summons although on occasions where there is an extensive challenge to the decision of a public official or public body they may be commenced by statement of claim. In either case the words, "Administrative Law List" should be added immediately under the words, "Common Law Division" on the front page of the originating process. These words should also be included in the Notice of Appearance and all other documents filed in the proceedings. In either case they will be given a date for a directions hearing before the registrar on a weekday at 9.00 am.
15. Proceedings for prerogative relief in relation to the decisions of tribunals or other public officials or public bodies are governed by Part 54 of the SCR. Such latter applications often also seek other administrative law relief such as declarations and injunctions. It should be

noted that the prerogative writs have been replaced by judgments and orders to a similar effect (SCA, s 69).

16. Proceedings by way of statutory appeal from an administrative tribunal pursuant to the provisions of the Act constituting the relevant tribunal are governed by Part 46 of the UCPR. Such appeals must be instituted within 28 days (UCPR r 46.3), and there must be served with, or subscribed to the summons, a statement of the grounds relied on (UCPR r 46.4). Provision is also made for cross-appeals (Rule 46.10) and notices of contention (UCPR r 46.11). Where the appeal is only on a question of law and there is no allegation of denial of natural justice or procedural fairness or excess of jurisdiction, the only evidence necessary is an affidavit annexing or exhibiting a copy of the relevant judgment, and where appropriate, a transcript of the evidence before the tribunal and a copy of the exhibits (see UCPR 46.14).
17. In relation to both applications for prerogative or other administrative law relief and statutory appeals, the relevant tribunal, public body or official must be made a party to the proceedings and served with a copy of the summons, except in the case of the Administrative Decisions Tribunal Appeal Panel. Where such tribunal or public body or official files a submitting appearance save as to costs not less than 2 clear days before the first directions hearing, such tribunal, public body or official need not be represented at such directions hearing but will be automatically excused from further attendance. If another party wishes to seek an order for costs against a submitting defendant, it must prior to such directions hearing, or within such further time as the Court may allow, give notice in writing to such submitting defendant setting out the grounds upon which such costs order will be sought (UCPR r 6.11).

Urgent applications

18. Urgent applications, e.g. for ex-parte injunctions and/or leave to serve short notice of proceedings, which on commencement will be appropriate for entry in the w List should be made to the Administrative Law List Judge or, if he or she is not available, the Judge designated to assist the List Judge, or if both are unavailable, to the Common Law Duty Judge for that week. Depending on the urgency of the matter, the Judge who deals with the urgent application will normally make the proceedings returnable in the ordinary directions list before the Registrar and will require a summons and affidavit to be filed and served.
19. 5.2 Urgent interlocutory relief, including stays of orders for possession of the Consumer, Trader and Tenancy Tribunal normally require the plaintiff to give the usual undertaking as to damages under rule 25.8 of the UCPR.
20. In cases involving stays of execution in appeals from the Consumer, Trader and Tenancy Tribunal where the plaintiff is unrepresented, an order is commonly made for service of the summons, affidavit and notice of the stay on the estate agent who appeared for the landlord in the Tribunal. This generally has the effect of ensuring that the respondent is aware of the proceedings and someone appears on his or her behalf at the directions hearing.

Directions hearings

21. When the proceedings come before the Court for directions, all parties should be represented by someone

familiar with the case so that the Court can give directions to enable the case to be prepared for hearing. Such directions will typically include dates for the filing of affidavits, discovery, particulars and/or production of documents (if necessary) and the determination of any interlocutory issues. In the ordinary case the only directions necessary are dates for the filing of affidavits. Any timetable fixed should be adhered to so as to avoid unnecessary appearances in the Directions List and the costs occasioned with such appearances. If a party is in default in adhering to the timetable set and such default necessitates additional appearances in the Directions List, consideration may be given to ordering the party in default to pay the costs of the additional appearances.

22. Only in exceptional cases will directions be given for the filing of Points of Claim and Points of Defence, but in appropriate cases, orders for particulars may be made e.g. where a plaintiff seeks orders in the nature of prohibition or certiorari but does not specify the grounds on which such relief is sought.
23. Where proceedings have been taken to challenge the decision of a public body or public official, because of the difficulties which at times arise in ascertaining the decision making process and the reasons for the decision, the Court may, at a directions hearing, direct the body or person whose decision has been challenged to furnish to the plaintiff within a specified time, a statement in writing setting out the reasons for the decision including findings on material questions of fact referring to the evidence or other material on which those findings were based, the body's or person's understanding of the applicable law and the reasoning processes leading to the decision (compare Administrative Decisions Tribunal Act 1997 (NSW), s 49). Otherwise in appropriate cases, orders may be made for such matters to be ascertained by way of particulars, discovery or interrogatories. Subject to this, orders for discovery or interrogatories will only be made in exceptional cases, and such orders will then generally be confined to particular issues. Evidence in matters in the List is normally by affidavit.
24. Interlocutory motions such as for summary judgment, to strike out the claim or any part thereof or for an expedited hearing should be made by notice of motion returnable in the Directions List. Unless such orders are consented to, they will generally not be heard on the return date, but a date will be fixed for hearing, possibly before the Duty Judge, if that Judge is available. If they are going to be lengthy, or the Duty Judge will not be available within a reasonable time, they may be referred to the Common Law List Judge to obtain a special fixture.
25. 6.5 When the proceedings are ready for a final hearing they are stood over to the next call-up before the Common Law List Judge for a hearing date to be allocated, although when the hearing has been expedited such matters will be referred to the Common Law List Judge to fix a hearing date. Except in cases of extreme urgency, this will not be done until all affidavits have prepared and the matter is otherwise ready for hearing.
26. There is express power in the to refer an appeal from, or an application for prerogative or declaratory relief relating to a tribunal to an Associate Judge. The List Judge will consider each matter on a case by case basis. An appeal from a Local Court, or an appeal from, or an application for prerogative relief or declaratory relief relating to the

Consumer, Trader and Tenancy Tribunal will be heard by an Associate Judge (SCR Schedule D, Part 3, paragraphs 5 and 5B). In such cases the Registrar examines the issues in the case at the first directions hearing, gives directions for the preparation of the case and then lists the matter for further directions in the Associate Judge's List before the registrar at 9.00 am on a suitable day. When the matter is ready for a hearing, the registrar allocates a hearing date before the Associate Judge. In such cases there is no right of appeal from an Associate Judge to a Judge in the Division, but only to the Court of Appeal, and usually only by leave of the Court of Appeal (SCR Pt 60 r 17 and UCPR r 45.4).

27.6.7 Proceedings in the List will not be stood over generally, even by consent. If parties require time to consider their position or negotiate a possible settlement, proceedings may, with the Court's approval, be adjourned for a comparatively lengthy period, but always to a fixed date with (if appropriate) liberty to restore the matter to the Directions List within that time.

J. J. SPIGELMAN, A.C.,
Chief Justice of New South Wales
17 August 2005

Related information

Practice Note SC CL 3 was issued and commenced on 17 August 2005.

This Practice Note replaced Former Practice Note No. 119 on 17 August 2005.

Practice Note SC Gen 1 Supreme Court – Application of Practice Notes

Practice Note SC Gen 4 Supreme Court – Affidavits

Supreme Court Rules 1970

Supreme Court Act 1970

Uniform Civil Procedure Rules 2005

Amendment history:

WATER MANAGEMENT ACT 2000

Determination Under Section 315

IN accordance with the approval of the Minister for Utilities and the authorisation of the Governor under section 315 of the Water Management Act 2000 the basis or bases of the service charges for water supplied or made available to customers of the Fish River Water Supply Scheme by the State Water Corporation, being a Water Supply Authority for the purposes of the Fish River Water Supply Scheme, are as set out in the schedule hereunder.

Dated this 24th day of August 2005

ABEL IMMARAJ,
Chief Executive Officer, State Water Corporation

Schedule of Fish River Water Supply Scheme Prices for 2005/06 *

| <i>Consumer</i> | <i>Minimum Annual Quantity (MAQ) ML/a</i> | <i>Fixed Access Charge cents/kL</i> | <i>Use Rate up to MAQ cents/kL</i> | <i>Use Rate above MAQ cents/kL</i> |
|------------------------------|---|-------------------------------------|------------------------------------|------------------------------------|
| <i>Bulk Unfiltered Water</i> | | | | |
| Delta Electricity | 8,184 | 20.5 | 23.0 | 43.5 |
| Sydney Catchment Authority | 3,650 | 20.5 | 23.0 | 43.5 |
| The Oberon Council | 750 | 20.5 | 23.0 | 43.5 |
| Individual Minor Consumers | 0.2 | 25.6 | 46.1 | 71.7 |
| <i>Bulk Filtered Water</i> | | | | |
| Lithgow Council | 2,092 | 30.7 | 33.3 | 64.0 |
| Individual Minor Consumers | 0.2 | 35.8 | 56.3 | 92.2 |

* Prices for 2005/06 have been increased by 2.4% from 2004/05 levels and rounded to the nearest decimal place.

BOXING AND WRESTLING CONTROL ACT 1986**RULE**

THE Hon. Sandra Nori, M.P., Minister for Tourism and Sport and Recreation and Minister for Women, in pursuance of the Boxing and Wrestling Control Act 1986, is pleased to approve the rule made by the Boxing Authority of New South Wales and set forth hereunder.

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

The Boxing Authority of New South Wales in pursuance of the power vested in it under the Boxing and Wrestling Control Act 1986 has resolved to make the following rule.

Citation

1. This rule may be cited as the "Boxing Authority Contract Rule".

Commencement

2. This rule shall take effect on and from the date of publication.

BOXING CONTRACT RULE

1. The Manager of each boxer engaged for a boxing contest shall not later than at the official weigh-in produce to the Authority member or Authority inspector present at that weigh-in a contract between the promoter and the boxer for the contest signed by the promoter and the boxer and dated not later than the date of the weigh-in.
2. The contract must be in the form approved by the Authority or contain sufficient particulars to be acceptable to the Authority member or inspector present at that weigh-in.
3. All contracts must include the following particulars:
 - (a) the name of the promoter;
 - (b) the name of the boxer;
 - (c) the date of the contest;
 - (d) the venue;
 - (e) the number of rounds in the contest;
 - (f) the duration of each round;
 - (g) the name of the opponent;
 - (h) the amount of the purse;
 - (i) the maximum weight for the contest;
 - (j) any non-competition period for the boxer prior to the contest.

BOXING CONTRACT

This agreement is made between....., the Promoter and....., the Boxer.

THE CONTEST - The Boxer agrees to box on the.....day of200.., at in a contest scheduled for rounds of minutes duration against or such substitute opponent as may be agreed to by the Boxer and the Promoter.

Where agreement upon a substitute opponent cannot be reached, this contract will be at an end and neither Boxer nor Promoter will have any rights against the other.

PURSE - The Promoter agrees to pay to the Boxer or his nominated representative, if required.....(name), the purse of \$....., such sum to be paid immediately following completion of the promotion.

FAILURE TO APPEAR - If the Boxer is ready, willing and able to participate in the contest and his opponent is, for any reason, unable to participate, the Promoter will pay the Boxer the sum of \$.....in lieu of the purse on or before the proposed contest.

If for any reason, other than medical, the Boxer is unable to or refuses to participate in the contest, the Boxer will pay the Promoter the sum of \$.....within three days of the scheduled date of the contest.

WEIGH-IN - The maximum weight for the contest is..... kgs. Should the Boxer exceed this weight at the official weigh-in, in title fights only, the Boxer shall be allowed 2 hours in which to make the weight limit. In all bouts, if the Boxer is unable to make the weight limit, the Boxer will pay the Promoter a "weight forfeit" fee of \$.....which may be deducted from the Boxer's purse by the Promoter.

Should the contest proceed by agreement between the Promoter, the Boxer and the opponent, at a weight in excess of the weight limit, the fee payable to the Boxer will be \$.....in lieu of the original purse.

NON COMPETITION PERIOD - The Boxer shall not compete in another contest within.....days prior to this contest.

SPECIAL CONDITIONS may be included overleaf.

Signed by Signed by PROMOTER BOXER

In the presence of..... In the presence of Address Address

Date..... Date

Signed by nominated representative In the presence of.....

Address.....

Date.....

The Common Seal of the Boxing Authority of New South Wales was herewith affixed in pursuance of a resolution of the Authority on the 5th October, 2004 in the presence of:))))

Member

Member



Approved Methods

for the Modelling and Assessment of Air Pollutants in New South Wales



Department of
Environment and Conservation (NSW)

About this publication

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For technical inquiries about this document, contact the Air Technical Advisory Services Unit of DEC.

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1. Introduction

1.1 Objective

This document, the *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales* ('Approved Methods'), lists the statutory methods for modelling and assessing emissions of air pollutants from stationary sources in the state. It is referred to in Part 4: Emission of Air Impurities from Activities and Plant in the Protection of the Environment Operations (Clean Air) Regulation 2002 (the 'Regulation'). Industry has an obligation to ensure compliance with the requirements specified in the Regulation.

This document may also be referred to in conditions attached to statutory instruments, such as:

- licences or notices issued under the *Protection of the Environment Operations Act 1997*
- NSW Department of Environment and Conservation (DEC) Director General's requirements under Part 4 of the *Environmental Planning and Assessment Act 1979*.

The procedures and methodologies contained in this document will undergo regular review, coinciding with the five-yearly review of the Regulation required by the *Subordinate Legislation Act 1989*.

1.2 Overview

This document covers:

- preparation of emissions inventory data
- preparation of meteorological data
- methods for accounting for background concentrations and dealing with elevated background concentrations
- dispersion modelling methodology
- interpretation of dispersion modelling results
- impact assessment criteria for –
 - sulfur dioxide (SO₂), nitrogen dioxide (NO₂), ozone (O₃), lead (Pb), PM₁₀, total suspended particulates (TSP), deposited dust, carbon monoxide (CO) and hydrogen fluoride (HF)
 - individual and complex mixtures of toxic air pollutants
 - individual and complex mixtures of odorous air pollutants
- modelling of chemical transformation
- procedures for developing site-specific emission limits, including hydrogen sulfide as specified in clause 31 of the Regulation as amended
- worked examples.

2. Methodology overview

2.1 Different levels of assessment

The two levels of impact assessment are:

- Level 1 – screening-level dispersion modelling technique using worst-case input data
- Level 2 – refined dispersion modelling technique using site-specific input data.

The impact assessment levels are designed so that the impact estimates from the second level should be more accurate than the first. This means that, for a given facility, the result of a Level 1 impact assessment would be more conservative and less specific than the result of a Level 2 assessment. It is not intended that an assessment should routinely progress through the two levels. If air quality impact is considered to be a significant issue, there is no impediment to immediately conducting a Level 2 assessment. Equally, if a Level 1 assessment conclusively demonstrates that adverse impacts will not occur, there is no need to progress to Level 2.

2.2 Impact assessment methodology

There are five main stages in an air quality impact assessment:

1. Input data collection
2. Dispersion modelling
3. Processing dispersion model output data
4. Interpretation of dispersion modelling results
5. Preparation of an impact assessment report.

2.4.1 *Input data collection*

The first stage in the impact assessment is the collection of all the information required to complete the dispersion modelling. This includes development of an air emissions inventory; compilation of meteorological data; background air quality data; and terrain data. Sections 3, 4 and 5 of these Approved Methods detail the EPA's requirements regarding the air quality impact assessment input data.

The development of the emissions inventory is one of the most important components of the impact assessment process. The inventory provides detailed information about all sources of air pollution at a premises. Emissions from the premises must be demonstrated to comply with the requirements of the Regulation before progressing through the other stages of the air quality impact assessment.

2.4.2 *Dispersion modelling*

AUSPLUME v. 6.0 is the approved dispersion model for use in most applications in NSW. However it is not approved in some applications where other more advanced dispersion models, such as CALPUFF and TAPM, may be more appropriate. The dispersion model input file should be prepared in accordance with the requirements of Section 6 of these Approved Methods and using the data collected in stage 1 of the impact assessment.

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2.4.3 Processing dispersion model output data

Stage 3 of the assessment process is the prediction ground-level concentrations (glcs) of pollutants in the region surrounding the premises. The predicted glcs of all pollutants must be in the same units and for the same averaging period as the relevant impact assessment criteria. The EPA's impact assessment criteria, together with the requirements regarding the presentation of the predicted glcs, are specified in Section 7.6.

2.4.4 Interpretation of dispersion modelling results

Stage 4 of the impact assessment is the interpretation of the dispersion modelling results. The predicted glcs are compared with the EPA's impact assessment criteria and compliance indicates the proposal is unlikely to result in adverse air quality impacts.

If a premises does not comply with the impact assessment criteria, the assessment must be revised to incorporate additional control or mitigation measures. To determine incremental increases in the cost of air pollution abatement, a sensitivity analysis can be carried out by varying:

- source release parameters
- separation distance
- efficiency of pollution control equipment
- level of management practice.

The results can be used to select the most cost-effective and environmentally effective control strategy.

2.4.5 Preparation of an impact assessment report

Stage 5 of the impact assessment is the preparation of a report. The air quality impact assessment report must be prepared in accordance with the requirements specified in Section 9 of these Approved Methods.

2.3 Bibliography

Earth Tech 2000, *A User's Guide for the CALPUFF Dispersion Model (Version 5)*, Earth Tech Incorporated, Long Beach CA, USA.

Earth Tech 2000, *A User's Guide for the CALMET Meteorological Model (Version 5)*, Earth Tech Incorporated, Long Beach CA, USA.

EPA Victoria 1985, *Plume Calculation Procedure: An Approved Procedure under Schedule E of State Environment Protection Policy (The Air Environment)*, Publication 210, Environment Protection Authority of Victoria, Melbourne.

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Hurley, P. 2005, *The Air Pollution Model (TAPM) Version 3: User Manual*, CSIRO Atmospheric Research Technical Paper No. 31, CSIRO Division of Atmospheric Research, Melbourne.

Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales

USEPA 1999, *Guideline on Air Quality Models*, 40 CFR, Chapter I, Part 51, Appendix W, United States Environmental Protection Agency, Washington DC, USA.

3. Emissions inventory

The emissions inventory is the foundation of the air quality impact assessment. Developing a sound emissions inventory should be a priority task and requires the collation of a significant amount of data. A thorough air emissions inventory for a premises identifies all sources of air pollution, the air pollutants emitted from each source, and estimates the emission concentration and rate of all air pollutants emitted. The following section provides guidance on each step of the development of an emissions inventory.

3.1 Identify all sources of air pollution and potential emissions

A thorough understanding of the premises is essential in developing an emissions inventory. Undertaking a site visit of the existing premises or a detailed review of the engineering drawings for the proposed premises is necessary to identify all sources of air pollution and gain an understanding of the process and industry. This knowledge can be supplemented with a literature review on the industry and its most prevalent air pollution issues.

For all sources of air pollution at a premises, identify the following:

- release type
- location (in metres relative to fixed origin, elevation and discharge geometry)
- potential air pollutants emitted.

3.1.1 Release type

Source configuration may be one of the following types:

Point sources

For a point source, emissions emanate from a very small opening such as a stack or vent. Stacks usually emit hot gases forcefully into the atmosphere at a fixed height above ground level.

Tall point sources: The term ‘tall’ point source usually refers to sources that protrude out of the surface boundary layer (e.g. over 30 to 50 m tall).

Wake-affected point sources: Where nearby buildings interfere with the trajectory and growth of the plume, the source is called a wake-affected point source. A point source is wake-affected if stack height is less than or equal to 2.5 times the height of buildings located within a distance of $5L$ (where L is the lesser of the height or width of the building) from each release point.

Wake-free point sources: Wake-free point sources are more than 2.5 times the height of the largest nearby building, so that surrounding buildings do not influence the stack top airflow.

Area sources

An area source has a more realistic two-dimensional structure but only a limited vertical extent. It is a source with a large surface area such as a liquid surface (pond, lagoon) or a landfill surface.

Line sources

A line source is a special case of a long, thin area source. In practice, these sources are taken to be at ground level and thin. A line source becomes an area source if the breadth exceeds 20% of the length.

Volume sources

A volume source is an essentially three-dimensional structure. Usually there are a sufficient number of emission points to consider a uniform emission rate over the full source structure. They are diffuse sources, such as emissions from within a building.

3.2 Determine source release parameters

For proposed premises this information is obtained from the engineering drawings and plans. For existing premises, this information can be obtained from site-specific sampling and analysis. The release parameters for each source type are:

Point: stack height, stack diameter, temperature, discharge velocity, moisture, pressure, carbon dioxide and oxygen concentration

Diffuse area: surface area, side length and release height

Diffuse volume: side length, release height, and initial horizontal and vertical plume spread (σ_y and σ_z).

3.3 Estimate emission rates

There are a number of methods that can be used to estimate the emission rate from each source. The EPA's preferred methods are direct measurement for existing sources and manufacturers' design specifications for proposed sources. Emission factors are generally used when there is no other information available or when emissions can reasonably be demonstrated to be negligible.

3.3.1 *Manufacturers' design specifications or performance guarantees*

Manufacturers' design specifications or performance guarantees can be used to estimate the emission rate of air pollutants from proposed sources. Such specifications provide a reliable means of determining the upper limit to the emission rate or concentration of air pollutants for sources that are maintained and operated in a proper and efficient manner.

Post-commissioning testing may be required to establish that sources comply with the manufacturers' design specifications and/or performance guarantees.

3.3.2 *Direct measurement*

For sources where manufacturers' design specifications or performance guarantees are unknown, emission rates and source release parameters should normally be established from the results of source emission sampling and analysis. All sampling of source emissions and analysis of air pollutants must be in accordance with Section 1 of the *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales* (DEC 2005).

3.3.3 *Emission factors*

An emission factor is usually an equation that relates the quantity of a pollutant released to process throughput. These factors are generally averages of all available data of acceptable quality, and are generally assumed to be representative of long-term averages for all facilities in the source category. As stated above, emission factors are generally used when there is no other information available or when emissions can reasonably be demonstrated to be negligible. Some databases of emission factors include:

- US EPA's AP-42 Emissions Factors (www.epa.gov/ttn/chief)

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- National Pollutant Inventory Emissions Estimation Technique Manuals (www.npi.gov.au/handbooks/approved_handbooks/sector-manuals.html).

3.3.4 Accounting for variability in emission rates

If the source is large, the frequency distribution of emission rates should be compiled and used in conjunction with the frequency distribution of meteorological conditions to predict the overall frequency distribution of predicted glcs. Manufacturers' design specifications or performance guarantees can be useful for establishing the upper bounds of likely operational variability.

If the source is smaller and data is available to describe the distribution of emission rates, use the **99.9th percentile**.

If no data is available to describe the distribution of emission rates, use the maximum measured or calculated emission rate.

Where practicable, emission rate data should be constructed using an averaging period that is the lesser of one hour or the sampling time used in the concentration calculations.

3.4 Calculate emission concentration for point sources

The concentration of a pollutant emitted from a source is calculated using equation 3.1:

Equation 3.1

$$C_i = \frac{ER_i}{FR}$$

where:

C_i = the concentration of pollutant i emitted from a source in mg/m³

ER_i = the rate pollutant i is emitted from the source in mg/s

FR = the gaseous volumetric flow rate in m³/s

The inventory should contain two emission concentrations:

1. Actual concentration of a pollutant emitted from a source (mg/Am³) calculated using the actual gaseous volumetric flow rate (Am³/s) and measured emission rate in Equation 3.1
2. Concentration of a pollutant emitted from a source corrected to the reference conditions as specified in the Regulation (mg/Nm³ @ O₂%). This is calculated using the gaseous volumetric flow rate corrected to normal conditions (dry, 273K, 101.3 kPa) and the measured emission rate in Equation 3.1. The emission concentration (in mg/Nm³) is then corrected to the appropriate oxygen reference condition. Further guidance on correcting to reference and equivalent values is provided in DEC (2005).

3.5 Assess compliance with the Regulation

The inventory must be used to demonstrate compliance with the Regulation. All sources of air emissions must comply with the requirements of the Regulation. If a source does not comply, the emissions inventory must be revised to reflect the implementation of new technology and/or pollution control equipment that will comply with the Regulation.

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3.6 Presentation of emissions inventory

The results of the emissions inventory must be presented to include the following information:

- all release parameters of stack and fugitive sources (e.g. temperature, exit velocity, stack dimensions, flow rate, moisture content, pressure, carbon dioxide and oxygen concentration)
- pollutant emission concentrations and a comparison against the relevant requirements of the Regulation.

A suggested format for summarising and presenting the results of the emissions inventory in the impact assessment report is provided in Tables 3.1 and 3.2. The additional data that should be included in the impact assessment report for complex mixtures of odour and hydrogen sulfide is included in Table 3.3.

Table 3.1: Stack source release parameters

| Source | Release type | Stack height (m) | Exit temp. (°C) | Exit diameter (m) | Exit velocity (m/s) | Oxygen conc. (%) | Moisture content (%) | Flow rate (Am ³ /s) | Flow rate (Nm ³ /s) |
|--------------|---------------|------------------|-----------------|-------------------|---------------------|------------------|----------------------|--------------------------------|--------------------------------|
| Boiler No. 1 | Wake-affected | 20 | 150 | 4 | 15 | 10 | 15 | 188.5 | 103.4 |

Table 3.2: Stack emission concentrations and regulation limits

| Pollutant | Emission rate (g/s) | Emission concentration (mg/Am ³) | Corrected emission concentration (mg/Nm ³ at stack reference conditions) | Regulation emission concentration limit (mg/Nm ³ at stack reference conditions) |
|--------------------|---------------------|--|---|--|
| Sulfur dioxide | 40 | 212.2 | N/A | N/A |
| Solid particles | 2 | 10.6 | 31.6 | 100 |
| Oxides of nitrogen | 15 | 79.6 | 237.4 | 350 |

Table 3.3: Peak odour emission rates

| Source | Source type | Odour emission rate (OUm ³ /s) | Stability class | Peak odour emission rate (OUm ³ /s) | |
|--------------|-------------|---|-----------------|--|-----------|
| | | | | Near-field | Far-field |
| Lagoon No. 1 | Area | 20,000 | A, B, C, D | 50,000 | 46,000 |
| | | | E, F | 46,000 | 38,000 |

3.7 Bibliography

DEC 2005, *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales*, Department of Environment and Conservation NSW, Sydney.

EPA 2001, *Draft Policy: Assessment and Management of Odour from Stationary Sources in NSW*, NSW Environment Protection Authority, Sydney.

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Department of Environment and Heritage, *National Pollutant Inventory Emissions Estimation Technique Manuals* (www.npi.gov.au/handbooks/approved_handbooks/sector-manuals.html)

USEPA 1995, AP 42, Fifth Edition Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources (www.epa.gov/ttn/chief/ap42/index.html)

4. Meteorological data

The meteorological data used in the dispersion model is of fundamental importance as it drives the transport and dispersion of the air pollutants in the atmosphere. The most critical parameters are wind direction, which determines the initial direction of transport of pollutants from their sources; wind speed, which dilutes the plume in the direction of transport and determines the travel time from source to receptor; and atmospheric turbulence, which indicates the dispersive ability of the atmosphere.

4.1 Minimum data requirements

The meteorological data used in the dispersion modelling is one factor that determines the level of assessment.

Level 1 impact assessments are conducted using ‘synthetic’ worst-case meteorological data. Table 4.1 lists the wind speed and stability class combinations that need to be included in the synthetic worst-case meteorological data file.

Level 2 impact assessments are conducted using at least one year of site-specific meteorological data. The meteorological data must be 90% complete in order to be acceptable for use in Level 2 impact assessments (i.e. for one year, there can be no more than 876 hours of data missing). If site-specific meteorological data are not available for a Level 2 impact assessment, at least one year of site-representative meteorological data must be used. The site-representative data should be:

- preferably collected at a meteorological monitoring station. Where measured data is unavailable or of insufficient quality for dispersion modelling purposes, a meteorological data file may be generated using a prognostic meteorological model such as TAPM (Section 4.5).
- correlated against a longer-duration site-representative meteorological database of at least five years (preferably five consecutive years) to be deemed acceptable. It must be clearly established that the data adequately describes the expected meteorological patterns at the site under investigation (e.g. wind speed, wind direction, ambient temperature, atmospheric stability class, inversion conditions and katabatic drift).

4.2 Siting and operating meteorological monitoring equipment

The following methods specified in DEC (2005) must be used for establishing, siting, operating and maintaining meteorological monitoring equipment:

- AM-1 (Standards Australia 1987a)
- AM-2 (Standards Australia 1987b)
- AM-4 (USEPA 2000).

All meteorological stations used to collect data for dispersion modelling purposes must use an anemometer that has a stall speed of 0.5 m/s or less.

For the AUSPLUME dispersion model, the meteorological parameters required are:

- wind speed (m/s)
- wind direction (°)
- ambient temperature (°C)
- atmospheric stability class

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- mixed layer height (m).

For deposited dust, the data file should include hourly average values for the following additional parameters:

- Monin–Obukhov length (m)
- surface friction velocity (m/s)
- surface roughness height (m).

Wind speed, wind direction and ambient temperature can be directly measured, but atmospheric stability class and mixed layer height need to be determined indirectly using other meteorological parameters with empirical formulae.

A meteorological station needs to measure and electronically log wind speed, wind direction and ambient temperature. In addition, for determining atmospheric stability class, one of the following is required:

- cloud cover and cloud ceiling height by visual observations obtained from the Bureau of Meteorology
- total solar radiation measured in conjunction with temperature at two levels and electronically logged
- sigma theta (the standard deviation of the horizontal wind direction fluctuation) electronically logged.

All parameters must be logged as 1-hour average values as a minimum requirement. In some circumstances these variables may need to be averaged and logged at intervals of 10 minutes or less.

4.3 Preparation of Level 1 meteorological data

DEC's preferred methods for the preparation of synthetic meteorological data are specified below. The use of methods other than these should be discussed with the Air Technical Advisory Services Unit of DEC.

4.3.1 *Wind speed and stability class*

Gaussian plume dispersion models use stability categories as indicators of atmospheric turbulence and the dispersive properties of the atmosphere. Based on the work of Pasquill and Gifford, seven stability categories have been defined: A – very unstable; B – unstable; C – slightly unstable; D – neutral; E – slightly stable; F – stable; and G – very stable conditions. In most dispersion models, stability classes F and G are combined into one class, F.

The stability class at any given time depends on:

- static stability (vertical temperature profile of the atmosphere, i.e. migrating high and low air-pressure masses)
- convective or thermal turbulence (caused by the rising of air heated at ground level)
- mechanical turbulence (a function of wind speed and surface roughness, i.e. wind flow over rough terrain, trees or buildings).

Table 4.1 lists the minimum wind speed and stability class combinations that must be included in a Level 1 meteorological data file.

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Table 4.1: Wind speed and stability class combinations for a Level 1 data file

| Stability class | Wind speed (m/s) | | | | | | | | | | | | | | | | | | |
|-----------------|------------------|---|-----|---|-----|---|-----|---|-----|---|---|---|---|----|----|----|----|----|----|
| | 0.5 | 1 | 1.5 | 2 | 2.5 | 3 | 3.5 | 4 | 4.5 | 5 | 6 | 7 | 8 | 10 | 12 | 14 | 16 | 18 | 20 |
| A | * | * | * | * | * | * | | | | | | | | | | | | | |
| B | * | * | * | * | * | * | * | * | * | * | | | | | | | | | |
| C | * | * | * | * | * | * | * | * | * | * | * | * | * | * | | | | | |
| D | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * | * |
| E | * | * | * | * | * | * | * | * | * | * | | | | | | | | | |
| F | * | * | * | * | * | * | | | | | | | | | | | | | |

4.3.2 Ambient temperature

For Level 1 impact assessments, the maximum and minimum ambient temperatures that are representative of the site must be included in the Level 1 meteorological data file to account for the range in possible plume rise. Higher ambient temperatures will result in the lowest plume rise and hence the largest impacts.

4.3.3 Mixing height

For Level 1 impact assessments, the mixing height for neutral and unstable conditions (classes A–D) can be calculated using an estimate of the mechanically driven mixing height. The mechanical mixing height, h , can be calculated as follows:

Equation 4.1: Mechanical mixing height for stability classes A–D

$$h = 0.3 \times u^* / f$$

where:

h = mixing height (m)

u^* = friction velocity (m/s)

f = coriolis parameter

For Level 1 impact assessments, the mixing height, h , for stable conditions (classes E and F) can either be set at an unlimited value (e.g. 5000 m) or calculated as follows:

Equation 4.2: Mechanical mixing height for stability classes E and F

$$h = 0.4 \times (u^*L / f)^{0.5}$$

where:

h = mixing height (m)

u^* = friction velocity (m/s)

L = Monin–Obukhov length (m)

F = coriolis parameter

4.3.4 Monin–Obukhov length

The Monin–Obukhov length, L , characterises the stability of the surface layer. The surface layer is defined as the layer above the ground in which the vertical variation of heat and momentum flux is negligible. The surface layer is typically 10% the height of the mixed

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layer. The parameter, L, can be calculated using the linear approximation to Golder's plot (Golder 1972) as follows:

Equation 4.3: Monin–Obukhov length

$$1/L = X + Y \times \log_{10}(Z_o)$$

where:

L = Monin–Obukhov length (m)

X & Y = parameters dependent on the Pasquill–Gifford stability class (see Table 4.2)

Z_o = surface roughness height (m) (see Table 4.3)

Table 4.2: Parameterisation of Golder's plot

| Pasquill–Gifford stability class | | | | | | |
|----------------------------------|--------|--------|--------|-------|--------|---------|
| Parameter | A | B | C | D | E | F |
| X | -0.096 | -0.037 | -0.002 | 0.000 | 0.004 | 0.035 |
| Y | 0.029 | 0.025 | 0.018 | 0.000 | -0.018 | -0.0365 |

In Equation 4.3:

- the value of Z_o is the surface roughness height, unless the surface roughness height is outside the range Z_{omin} to Z_{omax} presented in Table 4.3
- if the surface roughness height < Z_{omin} use the value of Z_{omin} for Z_o
- if the surface roughness > Z_{omax} use the value of Z_{omax} for Z_o.

Table 4.3: Upper and lower limits for surface roughness heights for each Pasquill–Gifford stability class

| Pasquill–Gifford stability class | | | | | | |
|----------------------------------|-------|-------|-------|-------|-------|-------|
| Parameter | A | B | C | D | E | F |
| Z _{omin} | 0.001 | 0.001 | 0.001 | 0.001 | 0.001 | 0.001 |
| Z _{omax} | 18.0 | 30.0 | 1.25 | 50.0 | 1.6 | 9.0 |

Table 4.4 presents typical values of surface roughness height for various land uses.

Table 4.4: Typical values of surface roughness height for various land-use categories (AUSPLUME version 6.0)

| Land-use category | Roughness height Z _o (m) | Land-use category | Roughness height Z _o (m) |
|-------------------|-------------------------------------|-------------------|-------------------------------------|
| Hill | 2.0 | High-rise | 1.0 |
| Industrial area | 0.8 | Commercial | 0.8 |
| Forest | 0.8 | Residential | 0.4 |
| Rolling rural | 0.4 | Flat rural | 0.1 |
| Flat desert | 0.01 | Water | 0.0001 |

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4.3.5 Surface friction velocity

The surface friction velocity, u^* , is a measure of mechanical turbulence and is directly related to the surface roughness. The parameter, u^* , can be calculated using the procedure presented below (Businger and Fleagle 1980; McRae 1981).

Condition 1: Wind speed = 0

$$u^* = 0.001 \text{ m/s}$$

Condition 2: Unstable conditions (Pasquill–Gifford stability classes A, B or C, or $1/L < 0$)

$$u^* = VK \times W_{sp} / \phi$$

where:

u^* = surface friction velocity (m/s)

VK = von Karman constant; use a value of 0.4

W_{sp} = absolute value of the wind speed at height Z_r (m/s)

ϕ = calculated according to the following equation:

$$\phi = \ln(Z_r / Z_o) + \ln((PZ_o^2 + 1.0) \times (PZ_o + 1.0)^2 / ((PZ_r^2 + 1.0) \times (PZ_r + 1.0)^2)) + 2 \times (\tan^{-1}(PZ_r) - \tan^{-1}(PZ_o))$$

where:

Z_r = reference height for the wind measurements (m)

Z_o = surface roughness height (m)

PZ_o and PZ_r = calculated according to the following equations:

$$PZ_r = (1.0 - 15.0 \times Z_r / L)^{0.25}$$

$$PZ_o = (1.0 - 15.0 \times Z_o / L)^{0.25}$$

Z_r = reference height for the wind measurements (m)

Z_o = surface roughness height (m)

L = Monin–Obukhov length (m)

Condition 3: Neutral conditions (Pasquill–Gifford stability class D, or $1/L = 0$)

$$u^* = VK \times W_{sp} / \ln(Z_r / Z_o)$$

where:

u^* = surface friction velocity (m/s)

VK = von Karman constant; use a value of 0.4

W_{sp} = absolute value of the wind speed at height Z_r (m/s)

Z_r = reference height for the wind measurements (m)

Z_o = surface roughness height (m)

Condition 4: Stable conditions (Pasquill–Gifford stability class E or F, or $1/L > 0$)

$$u^* = VK \times W_{sp} / (\ln(Z_r / Z_o) + 4.7 / L \times (Z_r - Z_o))$$

where:

u^* = surface friction velocity (m/s)

VK = von Karman constant; use a value of 0.4

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W_{sp} = absolute value of the wind speed at height Z_r (m/s)

Z_r = reference height for the wind measurements (m)

Z_o = surface roughness height (m)

4.3.6 Coriolis parameter

The coriolis parameter accounts for variation in wind direction with height (wind shear) at different latitudes and can be calculated in accordance with well-established techniques. The coriolis parameter, f , can be calculated as follows:

$$f = 2\Omega\sin(\phi)$$

where:

Ω = Earth's rotation rate ($2\pi/86400$ or 7.29×10^{-5} rad·s⁻¹)

π = pi or 3.1416 radians (rad)

86400 = number of seconds in the day (s/day)

ϕ = latitude in radians (rad)

Table 4.5 lists an example of typical mixing heights for a location with a similar latitude to Sydney (34°) and in a rural location (surface roughness height of 0.3 m) to be included in the Level 1 meteorological data file.

Table 4.5: Typical mixing heights for a rural location (km)

| | | Wind speed (m/s) | | | | | | | | | | | | | | | | | |
|-----------------|-----|------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Stability class | 0.5 | 1 | 1.5 | 2 | 2.5 | 3 | 3.5 | 4 | 4.5 | 5 | 6 | 7 | 8 | 10 | 12 | 14 | 16 | 18 | 20 |
| A | 0.2 | 0.4 | 0.6 | 0.8 | 1.0 | 1.2 | | | | | | | | | | | | | |
| B | 0.2 | 0.4 | 0.5 | 0.7 | 0.9 | 1.0 | 1.2 | 1.4 | 1.6 | 1.8 | | | | | | | | | |
| C | 0.2 | 0.3 | 0.5 | 0.6 | 0.8 | 0.9 | 1.1 | 1.2 | 1.4 | 1.5 | 1.8 | 2.1 | 2.4 | 3.1 | | | | | |
| D | 0.2 | 0.3 | 0.4 | 0.6 | 0.7 | 0.8 | 1.0 | 1.1 | 1.3 | 1.4 | 1.7 | 2.0 | 2.2 | 2.8 | 3.3 | 3.9 | 4.5 | 5.0 | 5.0 |
| E | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | | | | | | | | | |
| F | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | | | | | | | | | | | | |

Table 4.6 lists an example of typical mixing heights for a location with a similar latitude to Sydney (34°) and in an urban location (surface roughness height of 1.0 m) to be included in the Level 1 meteorological data file.

Table 4.6: Typical mixing heights for an urban location (km)

| | | Wind speed (m/s) | | | | | | | | | | | | | | | | | |
|-----------------|-----|------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Stability class | 0.5 | 1 | 1.5 | 2 | 2.5 | 3 | 3.5 | 4 | 4.5 | 5 | 6 | 7 | 8 | 10 | 12 | 14 | 16 | 18 | 20 |
| A | 0.3 | 0.6 | 1.0 | 1.3 | 1.6 | 2.0 | | | | | | | | | | | | | |
| B | 0.3 | 0.5 | 0.8 | 1.1 | 1.4 | 1.7 | 1.9 | 2.2 | 2.5 | 2.7 | | | | | | | | | |
| C | 0.2 | 0.4 | 0.7 | 0.9 | 1.1 | 1.3 | 1.5 | 1.8 | 2.0 | 2.2 | 2.6 | 3.1 | 3.5 | 4.4 | | | | | |
| D | 0.2 | 0.4 | 0.6 | 0.8 | 1.1 | 1.3 | 1.5 | 1.7 | 1.9 | 2.1 | 2.6 | 2.9 | 3.4 | 4.3 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 |
| E | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | | | | | | | | | |
| F | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | | | | | | | | | | | | |

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4.4 Preparation of Level 2 meteorological data

For guidance on processing meteorological data for dispersion modelling purposes, the USEPA guide (USEPA 2000) and USEPA processor (USEPA 1996) should be used.

4.4.1 Stability class

In order of preference, the following methods outlined in USEPA (2000) should be used to determine stability class:

Turner's 1964 method: This requires information on solar altitude or zenith angle, cloud cover, cloud ceiling height and wind speed. Solar altitude can easily be calculated, but cloud cover and ceiling height are generally determined through visual observations.

Solar radiation–delta temperature method: This retains the basic structure and rationale of Turner's 1964 method but eliminates the need for observations of cloud cover and ceiling height. The method uses the surface-layer wind speed (measured at 10 m) in combination with measurements of total solar radiation during the day and a low-level vertical temperature difference (i.e. at 2 m and 10 m) at night.

Sigma theta method (the standard deviation of the horizontal wind direction fluctuation): All modern meteorological data loggers include software to determine sigma theta.

For Level 2 impact assessments, hourly stability class should be estimated using the USEPA meteorological pre-processor for regulatory models (USEPA 1996) or a processor that includes similar techniques.

4.4.2 Mixing height

Mixing height is the depth through which pollutants released to the atmosphere are typically mixed by dispersive processes. Dispersion of pollutants in the lower atmosphere is greatly aided by the convective and turbulent mixing that takes place. Mixing height determines the vertical extent of dispersion for releases occurring below that height. Releases occurring above that height are assumed to have no ground-level impact (with the exception of fumigation episodes). Therefore, the greater the vertical extent of the mixed layer, the larger the volume available to dilute pollutant emissions.

Morning and afternoon mixing heights are estimated using vertical temperature profiles (otherwise known as 'upper air data') and surface temperature measurements. For Level 2 impact assessments, hourly mixing heights should be estimated from the twice-daily mixing height values, sunrise and sunset times, and hourly stability categories by using the USEPA meteorological pre-processor for regulatory models (USEPA 1996) or a processor which includes similar techniques.

4.5 Developing site-representative meteorological data using prognostic meteorological models

In some areas of NSW neither site-specific nor site-representative meteorological data are available that are suitable for use in regulatory dispersion modelling applications. Where this is the case, prognostic meteorological models may be used.

CSIRO's TAPM (Hurley 2005a and 2005b; Hurley et al. 2005) is a three-dimensional prognostic meteorological and dispersion modelling system. TAPM is the most frequently used prognostic meteorological model in NSW. TAPM uses databases of terrain, vegetation, soil type, sea surface temperature and synoptic-scale meteorological analyses for Australia. TAPM is driven by 6-hourly synoptic analyses at approximately 75-kilometre resolution. This

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database is derived from Local Area Prediction System analysis data from the Bureau of Meteorology.

The following model set-up is the minimum specification that must be used to generate a meteorological data file for regulatory dispersion modelling applications:

- TAPM v. 2.0 or later
- GEODATA 9-second (~250 m) terrain height database
- TAPM default databases for land use, synoptic analyses and sea surface temperature
- 25 by 25 horizontal grid points
- 25 vertical levels
- outer grid of 30 kilometres, with nesting grids of 10 km, 3 km and 1 km
- TAPM defaults for advanced meteorological inputs.

4.6 Availability of meteorological processing software, guidance documents and prognostic meteorological models

Meteorological processing software and guidance documents can be electronically downloaded, free of charge, from the USEPA website: www.epa.gov/ttn/scram/

TAPM can be purchased from CSIRO and includes a terrain and land-use database CD and synoptic analysis databases for two calendar years for Australia. Data for other geographical regions can be purchased together with extra synoptic analyses for other calendar years and a finer-resolution terrain (9-second digital elevation model) dataset for Australia.

4.7 Bibliography

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5. Background air quality, terrain, sensitive receptors and building wake effects

5.1 Background air quality data

Including background concentrations of pollutants in the assessment enables the total impact of the proposal (i.e. impact of emissions on existing air quality) to be assessed. The background concentrations of air pollutants are ideally obtained from ambient monitoring data collected at the proposed site. As this is extremely rare, data is typically obtained from a monitoring site as close as possible to the proposed location where the sources of air pollution resemble the existing sources at the proposal site.

5.1.1 Accounting for background concentrations

For impact assessments of sulfur dioxide (SO₂), nitrogen dioxide (NO₂), ozone (O₃), PM₁₀, total suspended particulates (TSP), deposited dust, lead (Pb), carbon monoxide (CO) and hydrogen fluoride (HF), the existing background concentrations of the pollutants in the vicinity of the proposal should be included in the assessment as follows:

Level 1 assessments

- Obtain ambient monitoring data that includes at least one year of continuous measurements.
- Determine the maximum background concentration of the pollutant being assessed for each relevant averaging period.
- At the maximum exposed off-site receptor, add the maximum background concentration and the **100th percentile** dispersion model prediction to obtain the total impact for each averaging period.

Level 2 assessments

- Obtain ambient monitoring data that includes at least one year of continuous measurements and is contemporaneous with the meteorological data used in the dispersion modelling.
- At each receptor, add each individual dispersion model prediction to the corresponding measured background concentration (e.g. add the first hourly average dispersion model prediction to the first hourly average background concentration) to obtain hourly predictions of total impact.
- At each receptor, determine the **100th percentile** total impact for the relevant averaging.

The use of an approach other than those above should be discussed with the Air Technical Advisory Services Unit of DEC.

5.1.2 Sourcing ambient monitoring data

Ambient monitoring data from a variety of locations in NSW is published in DEC's *Quarterly Air Monitoring Reports* (www.environment.nsw.gov.au/air/datareports.htm) and may be of assistance in characterising the existing ambient air quality. Data may also be obtained from various industry monitoring programs.

All monitoring to establish background concentrations must be conducted in accordance with the methods specified in DEC (2005).

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5.1.3 Dealing with elevated background concentrations

In some locations, existing ambient air pollutant concentrations may exceed the impact assessment criteria from time to time. In such circumstances, a licensee must demonstrate that no additional exceedances of the impact assessment criteria will occur as a result of the proposed activity and that best management practices will be implemented to minimise emissions of air pollutants as far as is practical. Refer to the worked example included in Section 11.2.

5.2 Terrain and sensitive receptors

The dispersion modelling input file requires information regarding the surrounding terrain and sensitive receptors. Terrain and receptor files are developed which include the location and height in metres relative to a fixed origin. The location of any particularly sensitive receptors (and likely future sensitive receptors) such as residences, schools and hospitals can also be specifically included in the receptor file.

5.3 Building wake effects

PRIME is the EPA's preferred building wake algorithm. AUSPLUME v. 6.0 includes the PRIME building wake algorithm and the Building Profile Input Program (BPIP) for entering the location and dimension of buildings. The location and dimensions of buildings located within a distance of 5L (where L is the lesser of the height or width of the building) from each release point for buildings with a height greater than 0.4 times the stack height should be entered in BPIP.

5.4 Bibliography

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6. Dispersion modelling

6.1 Dispersion models

Dispersion models provide the ability to mathematically simulate atmospheric conditions and behaviour. They are used to calculate spatial and temporal sets of concentrations and particle deposition due to emissions from various sources. Dispersion models can be used to determine the affected zone around an emitter by producing results that can be compared against impact assessment criteria.

Dispersion models can provide concentration or deposition estimates over an almost unlimited grid of user-specified locations, and can be used to evaluate both existing and forecast emission scenarios. In this capacity, air dispersion modelling is a useful tool in assessing the air quality impacts associated with existing and proposed emission sources. The results of the dispersion modelling analysis can be used to develop control strategies that should ensure compliance with the assessment criteria. Dispersion models can also be used to estimate the cumulative impacts of various industries that are located close to one another.

Dispersion models are widely used by environmental regulators in Australia, New Zealand, the United States, the United Kingdom and Europe, and industry well understands their limitations. The results have been shown, through numerous model evaluation studies, to be sufficiently robust to be relied on to calculate concentration limits for point-source stack emissions.

6.2 Approved dispersion models

AUSPLUME v. 6.0 or later is the approved dispersion model for use in most simple, near-field applications in NSW, where coastal effects and complex terrain are of no concern.

AUSPLUME is a Gaussian plume model, based on the assumption that cross-sections through elevated plumes from point sources of pollution have a Gaussian (or normal) distribution of concentration. AUSPLUME is also a steady-state model, which assumes the atmosphere is in a state of uniform flow, and wind velocity is a function of height alone and does not vary with direction. The mathematical basis of AUSPLUME is the Victorian EPA's Plume Calculation Procedure (EPA Victoria 1985), which itself is an extension of the ISC model (USEPA 1995).

AUSPLUME v. 6.0 or later is specifically *not* approved for use in the following applications:

- **complex terrain, non-steady-state conditions:** AUSPLUME is a steady-state model and is unable to adjust the winds to reflect the effects of terrain. The straight-line trajectory assumption of the plume model is unable to handle the curved flow associated with terrain-induced deflection of channelling. AUSPLUME should not be used for terrain where the height of any receptor exceeds the lowest release height.
- **buoyant line plumes** (e.g. discharges from the roof vents of aluminium smelters)
- **coastal effects such as fumigation:** AUSPLUME is unable to consider large changes in meteorological conditions which can occur over short distances across a coastline.
- **high frequency of stable calm night-time conditions:** Pollutants can accumulate under such conditions or will flow downwind with the drainage flow. AUSPLUME has no memory of the previous hour's weather conditions as each hour is treated independently of the next and material is carried away instantaneously, to the edge of the grid, even if only light winds are prevailing.

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- **high frequency of calm conditions:** AUSPLUME cannot handle calm conditions because of the inverse wind speed dependence plume equation. AUSPLUME assumes a minimum wind speed, which shoots the plume out to the edge of the grid even though the plume may not have moved at all.
- **inversion break-up fumigation conditions.**

There are also other situations where another dispersion model may be more scientifically sound than AUSPLUME. In these instances, CALPUFF or TAPM (Section 6.3) may be appropriate. The two key factors that should be considered in evaluating whether to use a conventional plume model, such as AUSPLUME, or a more sophisticated approach are:

1. Is the steady-state assumption in the plume model valid?
2. Do the technical parameterisations in the plume model adequately treat the situation to be modelled?

For other applications, the choice of a dispersion model other than AUSPLUME, CALPUFF or TAPM should be discussed with the Air Technical Advisory Services Unit of DEC. For the calculation of site-specific emission limits for hydrogen sulfide and sulfur dioxide, written approval must be obtained from the EPA for the use of a dispersion model other than AUSPLUME, CALPUFF or TAPM. The application must show that the alternative dispersion model is scientifically sound for the proposed application.

6.3 Advanced dispersion models for specialist application

In circumstances where the AUSPLUME dispersion model is not approved or suitable for use, other dispersion models may be appropriate. Guidance on choosing appropriate alternative dispersion models can be found in the USEPA publication *Guideline on Air Quality Models* (USEPA 1999). CALPUFF and TAPM are the most commonly used alternative dispersion models for regulatory dispersion modelling applications in NSW. However only experienced and appropriately trained professionals should use them.

6.3.1 CALPUFF

CALPUFF is a multi-layer, multi-species, non-steady-state Gaussian puff dispersion model that is able to simulate the effects of time- and space-varying meteorological conditions on pollutant transport. This enables the model to account for a variety of effects such as spatial variability of meteorological conditions, causality effects, dry deposition and dispersion over a variety of spatially varying land surfaces, plume fumigation, low wind speed dispersion, pollutant transformation and wet removal. CALPUFF has various algorithms for parameterising dispersion processes, including the use of turbulence-based dispersion coefficients derived from similarity theory or observations.

CALPUFF has been accepted by the USEPA as a guideline model to be used in regulatory applications involving the long-range transport of pollutants (> 50 km). It can also be used on a case-by-case basis in situations involving complex flow and non-steady-state cases up to 50 kilometres from the source.

CALPUFF v. 5.7, CALMET v. 5.5 and CALPOST v. 5.4 or later should be used.

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6.3.2 TAPM

The Air Pollution Model (TAPM) was developed by the CSIRO to simulate three-dimensional meteorology and pollution dispersion in areas where meteorological data are sparse or non-existent. The modelling system contains a number of dispersion modules. These include a particle/puff dispersion model for dispersion from point, line, area and volume sources, and a three-dimensional grid-point model for urban air pollution studies. The dispersion models allow for plume rise and building wake effects, wet and dry deposition and photochemistry for urban airshed applications. TAPM v. 2.0 or later should be used.

6.4 Dispersion modelling methodology using AUSPLUME

Unless otherwise stated, the default options specified in the *Technical Users Manual* (EPA Victoria 2000) must be used with AUSPLUME. These options are the most appropriate for most impact assessment applications.

Terrain effects

- Use the Egan half-height approach to account for terrain effects.

Building wake effects

- All building dimensions must be entered in 10-degree increments. Use the USEPA utility program BPIP (USEPA 1995) within AUSPLUME to calculate the 36 wind-direction-dependent building dimensions.
- Use the PRIME method to account for building wake effects.
- The USEPA's guidance document on good engineering practice (USEPA 1985) must be taken into account when designing new stacks to avoid building wake effects.

Horizontal dispersion curves

- For stacks < 100 m high, use sigma theta values or Pasquill–Gifford curves.
- For stacks > 100 m high, use Briggs rural curves.

Vertical dispersion curves

- For stacks < 100 m high, use Pasquill–Gifford curves.
- For stacks > 100 m high, use Briggs rural curves.

'Enhance plume spreads for buoyancy'

- Enable this option for both the horizontal and vertical dimensions.

'Adjust Pasquill–Gifford formulae for roughness height'

- Use this option.

Plume rise parameters

- Use the AUSPLUME defaults.

Wind speed categories

- Use the AUSPLUME defaults.

Wind profile exponents

- Use Irwin rural wind profile exponents for rural areas.
- Use Irwin urban wind profile exponents for urban areas.

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6.5 Dispersion modelling methodology using CALPUFF

CALPUFF includes an option to automatically set all the options to the USEPA default values. These include:

- Wind speed profile: ISC Rural
- Transitional plume rise modelled
- Stacktip downwash
- Partial plume penetration
- Dispersion curves: Pasquill–Gifford or dispersion coefficients using turbulence-based micro-meteorology
- No adjustment of dispersion curves for roughness
- Terrain: partial plume adjustment method

6.6 Calculate peak concentrations

The evaluation of odour impacts requires the estimation of short or peak concentrations on the time scale of less than one second. Dispersion model predictions are typically valid for averaging periods of one hour and longer. Dispersion models, such as AUSPLUME, therefore need to be supplemented to accurately simulate atmospheric dispersion of odours and the instantaneous perception of odours by the human nose.

The prediction of peak concentrations from estimates of ensemble means can be obtained from a ratio between extreme short-term concentration and longer-term averages. Properly defined peak-to-mean ratios depend upon the type of source, atmospheric stability and distance downwind. Table 6.1 shows the EPA-recommended factors for estimating peak concentrations for different source types, stabilities and distances as developed by Katestone Scientific (1995 and 1998).

The P/M60 ratios in Table 6.1 are for an idealised situation for one source in flat terrain where the receptor is located along the centreline of the single plume. The ratios do not consider fluctuations away from the centre line, terrain influences or plume interaction from multiple sources.

The EPA requires peak ground-level concentrations to be calculated for the following pollutants:

- hydrogen sulfide
- complex mixtures of odour.

A screening level assessment of peak glcs can be undertaken by applying the ratios in Table 6.1 to multiple sources at a premises. These ratios can be applied to the emission rates entered into the dispersion model as follows:

1. Determine the source type, stability class and if the receptors are near-field or far-field or both.
2. Select the appropriate P/M60 ratios from Table 6.1.
3. For wake-affected point sources, determine the meteorological conditions (i.e. wind speed and stability class) under which the source is wake-affected and wake-free.
4. Apply P/M60 ratios to odour and hydrogen sulfide emission rates so they vary with wind speed and stability class.

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More detailed procedures for estimating peak glcs from multiple sources are discussed in Katestone Scientific (1995 and 1998).

Table 6.1: Factors for estimating peak concentrations in flat terrain (Katestone Scientific 1995 and 1998)

| Source type | Pasquill–Gifford stability class | Near-field P/M60* | Far-field P/M60* |
|-------------------------|----------------------------------|-------------------|------------------|
| Area | A, B, C, D | 2.5 | 2.3 |
| | E, F | 2.3 | 1.9 |
| Line | A–F | 6 | 6 |
| Surface wake-free point | A, B, C | 12 | 4 |
| | D, E, F | 25 | 7 |
| Tall wake-free point | A, B, C | 17 | 3 |
| | D, E, F | 35 | 6 |
| Wake-affected point | A–F | 2.3 | 2.3 |
| Volume | A–F | 2.3 | 2.3 |

* Ratio of peak 1-second average concentrations to mean 1-hour average concentrations

6.7 Availability of dispersion modelling software and guidance documents

Windows-based **AUSPLUME** v. 6.0 can be purchased by writing to:

Environment Protection Authority of Victoria
27 Francis Street
Melbourne Victoria 3000

The **BPIP PRIME** (BPIPPRM) user's manual and software can be electronically downloaded, free of charge, from the USEPA website at www.epa.gov/scram001/tt22.htm#bpipprm

The **CALPUFF** dispersion modelling package and guidance documents can be electronically downloaded, free of charge, from the Earth Tech Incorporated website at earthtec.vwh.net/download/download.htm

The **TAPM** software can be purchased by writing to:

Dr Peter Hurley
CSIRO Atmospheric Research
PMB 1
Aspendale Victoria 3195

Guidance documents and information about TAPM can be obtained from the CSIRO website at www.dar.csiro.au/tapm/

Other dispersion modelling software and guidance documents can be electronically downloaded free of charge from the USEPA website at www.epa.gov/ttn/scram/

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- USEPA 1997, *Addendum to ISC3 User's Guide, The PRIME Plume Rise and Building Downwash Model*, United States Environmental Protection Agency, Washington DC, USA.
- USEPA 1999, *Guideline on Air Quality Models*, 40 CFR, Chapter I, Part 51, Appendix W, United States Environmental Protection Agency, Washington DC, USA.

7. Interpretation of dispersion modelling results

The primary purpose of an air quality impact assessment is to determine whether emissions from a premises will comply with the appropriate environmental outcomes. The assessment criteria outlined below reflect the environmental outcomes adopted by the EPA.

To ensure the environmental outcomes are achieved, emissions from a premises must be assessed against the assessment criteria. The cumulative impact of emissions from several facilities also needs to be considered. Impacts of sulfur dioxide (SO₂), nitrogen dioxide (NO₂), ozone (O₃), Lead (Pb), particles (PM₁₀), total suspended particulates (TSP), deposited dust, carbon monoxide (CO) and hydrogen fluoride (HF) must be combined with existing background levels before comparison with the relevant impact assessment criteria.

Assessment criteria must not be used as limit conditions in environment protection licences. Compliance with assessment criteria (i.e. in the ambient air at the boundary of the premises or nearest sensitive receptor) cannot be readily determined for regulatory purposes. For point sources, a site-specific stack emission limit can be calculated (see Section 10 and 11.1) so that the assessment criteria will not be exceeded at and beyond the boundary of a premise because of emissions from those sources.

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7.1 SO₂, NO₂, O₃, Pb, PM₁₀, TSP, deposited dust, CO and HF

7.1.1 Impact assessment criteria

Table 7.1: Impact assessment criteria for SO₂, NO₂, O₃, Pb, PM₁₀, TSP, deposited dust, CO and HF

| Pollutant | Averaging period | Concentration | | Source |
|-------------------------------------|------------------|--|--|---------------|
| | | pphm | µg/m ³ | |
| Sulfur dioxide (SO ₂) | 10 minutes | 25 | 712 | NHMRC (1996) |
| | 1 hour | 20 | 570 | NEPC (1998) |
| | 24 hours | 8 | 228 | NEPC (1998) |
| | Annual | 2 | 60 | NEPC (1998) |
| Nitrogen dioxide (NO ₂) | 1 hour | 12 | 246 | NEPC (1998) |
| | Annual | 3 | 62 | NEPC (1998) |
| Photochemical oxidants (as ozone) | 1 hour | 10 | 214 | NEPC (1998) |
| | 4 hours | 8 | 171 | NEPC (1998) |
| Lead | Annual | – | 0.5 | NEPC (1998) |
| PM ₁₀ | 24 hours | – | 50 | NEPC (1998) |
| | Annual | – | 30 | EPA (1998) |
| Total suspended particulates (TSP) | Annual | – | 90 | NHMRC (1996) |
| | | g/m²/month^a | g/m²/month^b | |
| Deposited dust ^c | Annual | 2 | 4 | NERDDC (1988) |
| | | ppm | mg/m³ | |
| Carbon monoxide (CO) | 15 minutes | 87 | 100 | WHO (2000) |
| | 1 hour | 25 | 30 | WHO (2000) |
| | 8 hours | 9 | 10 | NEPC (1998) |
| | | µg/m³^d | µg/m³^e | |
| Hydrogen fluoride | 90 days | 0.5 | 0.25 | ANZECC (1990) |
| | 30 days | 0.84 | 0.4 | ANZECC (1990) |
| | 7 days | 1.7 | 0.8 | ANZECC (1990) |
| | 24 hours | 2.9 | 1.5 | ANZECC (1990) |

a Maximum increase in deposited dust level.

b Maximum total deposited dust level.

c Dust is assessed as insoluble solids as defined by AS 3580.10.1–1991 (AM-19).

d General land use, which includes all areas other than specialised land use.

e Specialised land use, which includes all areas with vegetation sensitive to fluoride, such as grape vines and stone fruits.

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7.1.2 Application of impact assessment criteria

The assessment criteria in Table 7.1 must be applied as follows:

1. At the **nearest existing or likely future off-site sensitive receptor**.
2. The **incremental impact** (predicted impacts due to the pollutant source alone) for each pollutant must be reported in units and averaging periods consistent with the impact assessment criteria.
3. **Background concentrations** must be included using the procedures specified in Section 5.
4. **Total impact (incremental impact plus background)** must be reported as the **100th percentile** in concentration or deposition units consistent with the impact assessment criteria and compared with the relevant impact assessment criteria.

7.2 Individual toxic air pollutants

7.2.1 Impact assessment criteria

Tables 7.2a and 7.2b list the impact assessment criteria for individual toxic air pollutants. The principal toxic air pollutants in Table 7.2a are defined on the basis that they are carcinogenic, mutagenic, teratogenic, highly toxic or highly persistent in the environment. Criteria for other individual toxic air pollutants are shown in Table 7.2b.

Principal toxic air pollutants must be minimised to the maximum extent achievable through the application of best-practice process design and/or emission controls. Decisions with respect to achievability will have regard to technical, logistical and financial considerations. Technical and logistical considerations include a wide range of issues that will influence the feasibility of an option: for example, whether a particular technology is compatible with an enterprise's production processes.

Financial considerations relate to the financial viability of an option. It is not expected that reductions in emissions should be pursued 'at any cost'. Nor does it mean that the preferred option will always be the lowest cost option. However it is important that the preferred option is cost-effective. The costs need to be affordable in the context of the relevant industry sector within which the enterprise operates. This will need to be considered on a case-by-case basis through discussions with the EPA.

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Table 7.2a: Impact assessment criteria for principal toxic air pollutants (Victorian Government Gazette 2001)

| Substance | Averaging period | Code | Impact assessment criteria | |
|--|------------------|------|--------------------------------|---------|
| | | | mg/m ³ ^a | ppm |
| Acrolein | 1 hour | 1 | 0.00042 | 0.00018 |
| Acrylonitrile | 1 hour | 2 | 0.008 | 0.0037 |
| Alpha chlorinated toluenes and benzoyl chloride | 1 hour | 3 | 0.009 | 0.0018 |
| Arsenic and compounds | 1 hour | 4 | 0.00009 | N/A |
| Asbestos | 1 hour | 4 | 0.18 | N/A |
| Benzene | 1 hour | 4 | 0.029 | 0.009 |
| Beryllium and beryllium compounds | 1 hour | 4 | 0.000004 | N/A |
| 1,3-butadiene | 1 hour | 3 | 0.04 | 0.018 |
| Cadmium and cadmium compounds | 1 hour | 4 | 0.000018 | N/A |
| Chromium VI compounds | 1 hour | 4 | 0.00009 | N/A |
| 1,2-dichloroethane (ethylene dichloride) | 1 hour | 5 | 0.07 | 0.018 |
| Dioxins and furans ^b | 1 hour | 4 | 2.0E-09 | N/A |
| Epichlorohydrin | 1 hour | 3 | 0.014 | 0.0037 |
| Ethylene oxide | 1 hour | 4 | 0.0033 | 0.0018 |
| Formaldehyde | 1 hour | 6 | 0.02 | 0.018 |
| Hydrogen cyanide | 1 hour | 1 | 0.20 | 0.18 |
| MDI (diphenylmethane diisocyanate) | 1 hour | 1 | 0.00004 | N/A |
| Nickel and nickel compounds | 1 hour | 4 | 0.00018 | 0.00009 |
| Polycyclic aromatic hydrocarbon (as benzo[a]pyrene) ^c | 1 hour | 3 | 0.0004 | N/A |
| Pentachlorophenol | 1 hour | 1 | 0.0009 | N/A |
| Phosgene | 1 hour | 1 | 0.007 | 0.0018 |
| Propylene oxide | 1 hour | 2 | 0.09 | 0.037 |
| TDI (toluene-2,4-diisocyanate; toluene-2,6-diisocyanate) | 1 hour | 1 | 0.00004 | N/A |
| Trichloroethylene | 1 hour | 3 | 0.5 | 0.09 |
| Vinyl chloride | 1 hour | 4 | 0.024 | 0.009 |

a Gas volumes are expressed at 25°C and at an absolute pressure of 1 atmosphere (101.325 kPa).

b Toxic equivalent as defined in clause 29 of the Regulation

c Refer to Table 7.2c

Codes:

1. USEPA extremely toxic
2. USEPA Group B1 carcinogen (probable human carcinogen)
3. IARC Group 2A carcinogen (probable human carcinogen)
4. IARC Group 1 carcinogen (known human carcinogen)
5. Mutagen (USEPA)
6. IARC Group 2B carcinogen (possible human carcinogen)

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Table 7.2b: Impact assessment criteria for individual toxic air pollutants (Victorian Government Gazette 2001)

| Substance | Averaging period | Impact assessment criteria | |
|---|------------------|----------------------------|--------|
| | | mg/m ^{3 a} | ppm |
| Acetone | 1 hour | 22 | 9.2 |
| Acrylic acid | 1 hour | 0.11 | 0.037 |
| Ammonia | 1 hour | 0.33 | 0.46 |
| Aniline | 1 hour | 0.14 | 0.037 |
| Antimony and compounds | 1 hour | 0.009 | N/A |
| Asphalt (petroleum) fumes | 1 hour | 0.09 | N/A |
| Barium (soluble compound) | 1 hour | 0.009 | N/A |
| Biphenyl | 1 hour | 0.024 | 0.0037 |
| Bromochloromethane | 1 hour | 19 | 3.7 |
| Bromoform (tribromomethane) | 1 hour | 0.09 | 0.009 |
| Bromotrifluoromethane | 1 hour | 112 | 18 |
| Carbon black | 1 hour | 0.05 | N/A |
| Carbon tetrachloride (tetrachloromethane) | 1 hour | 0.012 | 0.0018 |
| Chlorine | 1 hour | 0.05 | 0.018 |
| Chlorine dioxide | 1 hour | 0.0051 | 0.0018 |
| Chloroform (trichloromethane) | 1 hour | 0.9 | 0.18 |
| Chloromethane (methyl chloride) | 1 hour | 1.9 | 0.9 |
| Chromium (III) compounds | 1 hour | 0.009 | N/A |
| Copper fumes | 1 hour | 0.0037 | N/A |
| Copper dusts and mists | 1 hour | 0.018 | N/A |
| Cotton dust (raw) | 1 hour | 0.0037 | N/A |
| Crotonaldehyde | 1 hour | 0.1 | 0.037 |
| Cyanide (as CN) | 1 hour | 0.09 | N/A |
| Cyclohexane | 1 hour | 19 | 5 |
| Cyclohexanol | 1 hour | 3.8 | 0.9 |
| o-dichlorobenzene | 1 hour | 5.5 | 0.9 |
| 1,2-dichloroethylene | 1 hour | 14.4 | 3.7 |
| Dichlorvos | 1 hour | 0.018 | 0.0018 |
| Dinitrobenzene (all isomers) | 1 hour | 0.018 | 0.003 |
| Dinitrotoluene | 1 hour | 0.027 | N/A |
| Ethanolamine | 1 hour | 0.14 | 0.05 |
| Ethylbenzene | 1 hour | 8.0 | 1.8 |
| Ethyl butyl ketone | 1 hour | 4.2 | 0.9 |
| Ethyl chloride (chloroethane) | 1 hour | 48 | 18 |

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| Substance | Averaging period | Impact assessment criteria | |
|---|------------------|--------------------------------|--------|
| | | mg/m ³ ^a | ppm |
| Ethylene glycol (vapour) | 1 hour | 1 | N/A |
| n-hexane | 1 hour | 3.2 | 0.9 |
| 2-hexanone | 1 hour | 1.8 | 0.46 |
| Hydrogen chloride | 1 hour | 0.14 | 0.09 |
| Iron oxide fumes | 1 hour | 0.09 | N/A |
| Magnesium oxide fumes | 1 hour | 0.18 | N/A |
| Maleic anhydride | 1 hour | 0.018 | 0.0046 |
| Manganese and compounds | 1 hour | 0.018 | N/A |
| Mercury organic | 1 hour | 0.00018 | N/A |
| Mercury inorganic | 1 hour | 0.0018 | N/A |
| Methyl acrylate | 1 hour | 0.66 | 0.18 |
| Methyl bromide (bromomethane) | 1 hour | 0.35 | 0.09 |
| Methylene chloride (dichloromethane) | 1 hour | 3.19 | 0.9 |
| Nitric acid | 1 hour | 0.09 | 0.037 |
| n-pentane | 1 hour | 33 | 11 |
| 2-pentanone | 1 hour | 12.8 | 3.7 |
| Phthalic anhydride | 1 hour | 0.1 | 0.018 |
| Propylene glycol monomethyl ether | 1 hour | 6.6 | 1.8 |
| Silver metal | 1 hour | 0.0018 | N/A |
| Silver, soluble compounds (as Ag) | 1 hour | 0.00018 | N/A |
| Sulfuric acid | 1 hour | 0.018 | N/A |
| 1,1,1-trichloroethane (methyl chloroform) | 1 hour | 12.5 | 2.3 |
| 1,1,2-trichloroethane | 1 hour | 1.0 | 0.18 |
| Trichlorofluoromethane | 1 hour | 103 | 18.3 |
| Trimethylbenzene (mixed isomers) | 1 hour | 2.2 | 0.46 |
| Vinyl toluene | 1 hour | 4.4 | 0.9 |
| Welding fumes (total particulate) | 1 hour | 0.09 | N/A |
| Wood dust hardwoods | 1 hour | 0.0018 | N/A |
| Wood dust softwoods | 1 hour | 0.009 | N/A |
| Zinc chloride fumes | 1 hour | 0.018 | N/A |
| Zinc oxide fumes | 1 hour | 0.09 | N/A |

^a Gas volumes are expressed at 25°C and at an absolute pressure of 1 atmosphere (101.325 kPa).

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Table 7.2c: Potency equivalency factors (PEFs) for PAHs (OEHHA 1994)

| PAH or derivative | CAS number | PEF |
|-----------------------------|------------|------|
| Benzo[a]pyrene | 50-32-8 | 1 |
| Benzo[a]anthracene | 56-55-3 | 0.1 |
| Benzo[b]fluoranthene | 205-99-2 | 0.1 |
| Benzo[j]fluoranthene | 205-82-3 | 0.1 |
| Benzo[k]fluoranthene | 207-08-9 | 0.1 |
| Bibenz[a,j]acridine | 224-42-0 | 0.1 |
| Bibenz[a,h]acridine | 226-36-8 | 0.1 |
| 7h-dibenzo[c,g]carbazole | 194-59-2 | 1 |
| Dibenzo[a,e]pyrene | 192-65-4 | 1 |
| Dibenzo[a,h]pyrene | 189-64-0 | 10 |
| Dibenzo[a,i]pyrene | 189-55-9 | 10 |
| Dibenzo[a,l]pyrene | 191-30-0 | 10 |
| 5-nitroacenaphthene | 602-87-9 | 0.01 |
| Indeno[1,2,3-cd]pyrene | 193-39-5 | 0.1 |
| 5-methylchrysene | 3697-24-3 | 1 |
| 1-nitropyrene | 5522-43-0 | 0.1 |
| 4-nitropyrene | 57835-92-4 | 0.1 |
| 1,6-dinitropyrene | 42397-64-8 | 10 |
| 1,8-dinitropyrene | 42397-65-9 | 1 |
| 6-nitrocrysene | 7496-02-8 | 10 |
| 2-nitrofluorene | 607-57-8 | 0.01 |
| Chrysene | 218-01-9 | 0.01 |
| Dibenz[a,h]anthracene | 53-70-3 | 0.4 |
| 7,12-dimethylbenzanthracene | 57-97-6 | 21.8 |
| 3-methylcholanthrene | 56-49-5 | 1.9 |

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7.2.2 Application of impact assessment criteria

The impact assessment criteria for individual toxic air pollutants in Tables 7.2a and 7.2b must be applied as follows:

1. **At and beyond the boundary of the facility.**
2. The **incremental impact** (predicted impacts due to the pollutant source alone) for each pollutant must be reported in concentration units consistent with the criteria (mg/m³ or ppm), for an **averaging period of 1 hour** and as the:
 - a. **100th percentile** of dispersion model predictions for Level 1 impact assessments, or
 - b. **99.9th percentile** of dispersion model predictions for Level 2 impact assessments.
3. Polycyclic aromatic hydrocarbons (PAH) as benzo[a]pyrene (BaP) must be calculated using the potency equivalency factors for PAHs in Table 7.2c.
4. Dioxins and furans as toxic equivalent must be calculated according to the requirements of clause 29 of the Regulation.

7.3 Complex mixtures of toxic air pollutants

7.3.1 Risk assessment criteria

Where a number of toxic and carcinogenic air pollutants are emitted in significant amounts, demonstrating compliance with impact assessment criteria may not adequately demonstrate the protection of human health. A risk assessment can be used to assess the potential risk arising from exposure to emissions of toxic air pollutants after emissions of principal toxic air pollutants have been reduced to the maximum extent achievable, and compliance with the impact assessment criteria has been demonstrated. Health risk assessment is particularly useful for the assessment of multiple chemicals and exposure through multiple pathways (e.g. inhalation, ingestion or dermal adsorption).

Take care when interpreting the results of a risk assessment. A risk assessment does not demonstrate that a particular impact will happen. Often the information available to risk assessors is imperfect, and consequently assumptions are made that tend to overestimate a risk. It is legitimate for a risk assessor to go through a process of refining assumptions to obtain a more realistic assessment of risk.

Guidelines for undertaking risk assessment in Australia have been prepared by the enHealth Council (enHealth 2002). These guidelines provide a broad framework for risk assessment that aims to enhance its use in environmental impact assessment.

The risk assessment process includes the following aspects:

- hazard identification
- assessment of exposure
- dose response assessment
- risk characterisation.

Assessment of exposure should be based on enHealth's published information on the assessment of exposure in Australia (enHealth 2001 and 2003).

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Dose response assessment and risk characterisation can be undertaken in accordance with the following:

- *The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments* (OEHHA 2003)
- *Hot Spots Analysis and Reporting Program* (HARP) (CARB 2003a)
- *Hot Spots Analysis and Reporting Program – User Guide Version 1.0* (CARB 2003b).

The results of the risk assessment should be compared with the criteria specified in Table 7.3 for carcinogenic risk and the acute and chronic non-carcinogenic hazard index.

Table 7.3: Acceptance criteria for risk and hazard index

| Evaluation | Carcinogenic risk (CR) | Acute and chronic non-carcinogenic hazard index (HI) |
|---|--|---|
| Acceptable | Less than 1 in 1 million (1×10^{-6}) | Less than 0.2 |
| Require best practice for air toxics and CR < 1 in 1 million and HI < 0.2 | 1 in 1 million to 1 in 10 thousand (1×10^{-6} to 1×10^{-4}) | 0.2 to 10 |
| Not acceptable | Greater than 1 in 10 thousand (1×10^{-4}) | Greater than 10 |

7.4 Individual odorous air pollutants

7.4.1 Impact assessment criteria

Table 7.4a lists the impact assessment criteria for individual odorous air pollutants. Equation 7.1 must be used to select the appropriate impact assessment criterion for hydrogen sulfide as a function of population density:

Equation 7.1

$$\text{Impact assessment criterion } (\mu\text{g}/\text{m}^3) = (\log_{10}(\text{population}) - 4.5) / -0.87$$

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Table 7.4a: Impact assessment criteria for individual odorous air pollutants (Victorian Government Gazette 2001)

| Substance | Averaging period | Impact assessment criteria | |
|---|------------------|--------------------------------|----------|
| | | mg/m ³ ^a | ppm |
| Acetaldehyde | 1 hour | 0.042 | 0.023 |
| Acetic acid | 1 hour | 0.27 | 0.11 |
| n-butanol | 1 hour | 0.5 | 0.16 |
| n-butyl acetate | 1 hour | 1.02 | 0.21 |
| Butyl acrylate | 1 hour | 0.10 | 0.019 |
| Butyl mercaptan | 1 hour | 0.007 | 0.002 |
| Carbon disulfide | 1 hour | 0.07 | 0.023 |
| Chlorobenzene | 1 hour | 0.1 | 0.023 |
| Cumene (isopropyl benzene) | 1 hour | 0.021 | 0.004 |
| Cyclohexanone | 1 hour | 0.26 | 0.07 |
| Diacetone alcohol | 1 hour | 0.7 | 0.15 |
| Diethylamine | 1 hour | 0.03 | 0.01 |
| Dimethylamine | 1 hour | 0.009 | 0.0052 |
| Diphenyl ether | 1 hour | 0.08 | 0.01 |
| Ethanol | 1 hour | 2.1 | 1.1 |
| Ethyl acetate | 1 hour | 12.1 | 3.5 |
| Ethyl acrylate | 1 hour | 0.0004 | 0.0001 |
| Methanol | 1 hour | 3.0 | 2.4 |
| Methylamine | 1 hour | 0.0027 | 0.0023 |
| Methyl ethyl ketone | 1 hour | 3.2 | 1.1 |
| Methyl isobutyl ketone | 1 hour | 0.23 | 0.05 |
| Methyl mercaptan | 1 hour | 0.00046 | 0.00023 |
| Methyl methacrylate | 1 hour | 0.12 | 0.027 |
| Methyl styrene | 1 hour | 0.14 | 0.028563 |
| Nitrobenzene | 1 hour | 0.0026 | 0.00052 |
| Perchloroethylene (tetrachloroethylene) | 1 hour | 3.5 | 0.52 |
| Phenol | 1 hour | 0.020 | 0.0052 |
| Phosphine | 1 hour | 0.0031 | 0.0023 |
| n-propanol | 1 hour | 0.041 | 0.016 |
| Pyridine | 1 hour | 0.007 | 0.0023 |
| Styrene (monomer) | 1 hour | 0.12 | 0.027 |
| Toluene | 1 hour | 0.36 | 0.09 |
| Triethylamine | 1 hour | 0.20 | 0.05 |
| Xylenes | 1 hour | 0.19 | 0.04 |

^a Gas volumes are expressed at 25°C and at an absolute pressure of 1 atmosphere (101.325 kPa).

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Table 7.4b provides a summary of appropriate impact assessment criteria for hydrogen sulfide as a function of population density.

Table 7.4b: Impact assessment criteria for hydrogen sulfide (nose-response-time average, 99th percentile) (AWT 2001)

| Population of affected community | Impact assessment criteria ($\mu\text{g}/\text{m}^3$) |
|------------------------------------|---|
| Urban ($\geq \sim 2000$) | 1.38 |
| ~ 500 | 2.07 |
| ~ 125 | 2.76 |
| ~ 30 | 3.45 |
| ~ 10 | 4.14 |
| Single residence ($\leq \sim 2$) | 4.83 |

7.4.2 Application of impact assessment criteria

The impact assessment criteria for individual odorous air pollutants in Tables 7.4a and 7.4b must be applied as follows:

1. **At the nearest existing or likely future off-site sensitive receptor.**
2. The **incremental impact** must be reported in concentration units consistent with the impact assessment criteria ($\mu\text{g}/\text{m}^3$) for an **averaging period of 1 hour, except for hydrogen sulfide, which must be reported as peak concentrations** (i.e. approximately 1 second average) in accordance with the requirements of Section 6, and as the
 - a. **100th percentile** of dispersion model predictions for Level 1 impact assessments, or
 - b. **99.9th percentile** of dispersion model predictions for Level 2 impact assessments, **except hydrogen sulfide**, which must be reported as the **99th percentile** of dispersion model predictions.

7.5 Complex mixtures of odorous air pollutants

7.5.1 Impact assessment criteria

The impact assessment criteria for complex mixtures of odours have been designed to take into account the range of sensitivity to odours within the community and to provide additional protection for individuals with a heightened response to odours. This is achieved by using a statistical approach dependent upon population size. As the population density increases, the proportion of sensitive individuals is also likely to increase, indicating that more stringent criteria are necessary in these situations.

Equation 7.2 should be used to determine the appropriate impact assessment criteria for complex mixtures of odorous air pollutants:

Equation 7.2

$$\text{Impact assessment criterion (OU)} = (\log_{10}(\text{population}) - 4.5) / -0.6$$

Table 7.5 provides a summary of appropriate impact assessment criteria for various population densities.

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Table 7.5: Impact assessment criteria for complex mixtures of odorous air pollutants (nose-response-time average, 99th percentile) (EPA 2001)

| Population of affected community | Impact assessment criteria for complex mixtures of odorous air pollutants (OU) |
|---|--|
| Urban (\geq 2000) and/or schools and hospitals | 2.0 |
| ~500 | 3.0 |
| ~125 | 4.0 |
| ~30 | 5.0 |
| ~10 | 6.0 |
| Single rural residence (\leq 2) | 7.0 |

7.5.2 Application of impact assessment criteria

The impact assessment criteria for complex mixtures of odorous air pollutants must be applied as follows:

1. **At the nearest existing or likely future off-site sensitive receptor.**
2. The **incremental impact** (predicted impact due to the pollutant source alone) must be reported in units consistent with the impact assessment criteria (OU), as **peak concentrations** (i.e. approximately 1 second average) in accordance with the requirements of Section 6 and as the:
 - a. **100th percentile** of dispersion model predictions for Level 1 impact assessments, or
 - b. **99th percentile** of dispersion model predictions for Level 2 impact assessments.

7.6 Presentation of assessment results

The results of an impact assessment should be presented as follows:

1. Concentration, hazard index and/or risk contours (isopleths) to define potential affected zones
2. Concentration, hazard index and/or risk predictions in tabular form for each of the following:
 - a. existing and likely future sensitive receptors
 - b. maximum exposed off-site receptor
 - c. maximum outside the boundary of the premises.

7.7 What if impact assessment criteria are exceeded?

If the EPA's impact assessment criteria are exceeded, the dispersion modelling must be revised to include various pollution control strategies until compliance is achieved. To determine incremental increases in the cost of air pollution abatement, a sensitivity analysis can be carried out by varying:

- source release parameters
- separation distance

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- efficiency of pollution control equipment
- level of management practice.

The results can be used to select the most cost-effective and environmentally effective control strategy.

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8. Modelling pollutant transformations

Photochemical smog is a complex mixture of chemicals and is sometimes visible as a white haze during the warmer months. In the Greater Metropolitan Region of NSW (Sydney, the Lower Hunter and Illawarra), its most significant components are ground-level ozone (O₃) and nitrogen dioxide (NO₂). These pollutants are formed in the atmosphere when volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) react under the influence of sunlight.

Oxides of nitrogen are formed during high-temperature combustion processes from the oxidation of nitrogen in the air or fuel. NO_x from combustion consists largely of nitrogen oxide (NO) and partly of NO₂. After emission from the stack, NO is transformed to NO₂ through oxidation with atmospheric ozone.

The formation of O₃ and NO₂ in the atmosphere can be assessed by various methods. Minor sources of NO_x and VOCs may need only a simplistic assessment to demonstrate compliance with impact assessment criteria, while larger sources may need a more detailed scientific assessment. An assessment of impacts of a new source of NO_x and/or VOCs on NO₂ and/or O₃ formation is unlikely to be necessary outside the Greater Metropolitan Region.

Various methods of assessment are described below.

8.1 Nitrogen dioxide assessment

The oxidation of NO to NO₂ in the atmosphere can be assessed by various methods. The methods below range from the simplistic (Method 1) to more detailed (Method 3).

8.1.1 Method 1: 100% conversion of NO to NO₂

Level 1 assessment: Maximum prediction and maximum background concentrations

1. Use a dispersion model to predict 1-hour and annual average ground-level concentrations of NO_x (as NO₂).
2. Assume that 100% of the NO_x emitted is converted to NO₂.
3. Determine the total ground-level concentration of NO₂ by adding the maximum predicted 1-hour and annual average ground-level concentrations with the maximum 1-hour and annual average background concentrations respectively.
4. If the impact assessment criteria are exceeded, a more refined assessment should be undertaken and/or additional management practices or emission controls applied.

Level 2 assessment: Contemporaneous prediction and background concentrations – 1-hour average

1. Use a dispersion model to predict 1-hour average ground-level concentrations of NO_x (as NO₂).
2. Assume that 100% of the NO_x emitted is converted to NO₂.
3. Determine the total ground-level concentration of NO₂ by adding the predicted 1-hour average ground-level concentration with the contemporaneous 1-hour average background concentration.
4. Determine the frequency at which the 1-hour average impact assessment criteria are exceeded at each sensitive receptor with and without the subject source.

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- If additional exceedances of the impact assessment criteria are caused by the addition of the subject source, a more refined assessment should be undertaken and/or additional management practices or emission controls applied.

8.1.2 Method 2: NO to NO₂ conversion limited by ambient ozone concentration (OLM)

The USEPA's Ozone Limiting Method (OLM) (Cole and Summerhays 1979; Tikvart 1996) may be used to predict ground-level concentrations of NO₂. This method assumes that all the available ozone in the atmosphere will react with NO in the plume until either all the O₃ or all the NO is used up. This approach assumes that the atmospheric reaction is instant. In reality, the reaction takes place over a number of hours. A detailed methodology can be downloaded from the following website: www.epa.gov/scram001/tt25.htm#review

Using Equation 8.1, various levels of refinement can be adopted, depending on the scale of emissions and impact.

Equation 8.1

$$[\text{NO}_2]_{\text{total}} = \{0.1 \times [\text{NO}_x]_{\text{pred}}\} + \text{MIN}\{(0.9) \times [\text{NO}_x]_{\text{pred}} \text{ or } (46/48) \times [\text{O}_3]_{\text{bkgd}}\} + [\text{NO}_2]_{\text{bkgd}}$$

where:

$[\text{NO}_2]_{\text{total}}$ = the predicted concentration of NO₂ in µg/m³

$[\text{NO}_x]_{\text{pred}}$ = the dispersion model prediction of the ground-level concentration of NO_x in µg/m³

MIN = the minimum of the two quantities within the braces

$[\text{O}_3]_{\text{bkgd}}$ = the background ambient O₃ concentration in µg/m³

(46/48) = the molecular weight of NO₂ divided by the molecular weight of O₃ in µg/m³

$[\text{NO}_2]_{\text{bkgd}}$ = the background ambient NO₂ concentration in µg/m³

Level 1 assessment: Maximum prediction and maximum background concentrations

- Use a dispersion model to predict 1-hour average and annual ground-level concentrations of NO_x (as NO₂).
- Assume that 100% of the NO_x emitted is converted to NO₂ ($[\text{NO}_x]_{\text{pred}}$ in Equation 8.1).
- Determine the maximum 1-hour and annual average background concentrations of NO₂ and O₃ ($[\text{NO}_2]_{\text{bkgd}}$ and $[\text{O}_3]_{\text{bkgd}}$ respectively in Equation 8.1).
- Determine the maximum total 1-hour and annual average ground-level concentrations of NO₂ ($[\text{NO}_2]_{\text{total}}$ in Equation 8.1) by substituting $[\text{NO}_x]_{\text{pred}}$, $[\text{NO}_2]_{\text{bkgd}}$ and $[\text{O}_3]_{\text{bkgd}}$ into Equation 8.1.
- If the impact assessment criteria are exceeded, a more refined assessment should be undertaken and/or additional management practices or emission controls applied.

Level 2 assessment: Contemporaneous prediction and background concentrations – 1-hour average

- Use a dispersion model to predict 1-hour average ground-level concentrations of NO_x (as NO₂).
- Assume 100% of the NO_x emitted is converted to NO₂ ($[\text{NO}_x]_{\text{pred}}$ in Equation 8.1).

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3. Obtain continuous 1-hour average ambient measurements of NO₂ and O₃ for the same period as the dispersion modelling predictions ([NO₂]_{bkgd} and [O₃]_{bkgd} respectively in Equation 8.1).
4. Determine the total ground-level concentration of NO₂ ([NO₂]_{total} in Equation 8.1) by substituting [NO_x]_{pred}, [NO₂]_{bkgd} and [O₃]_{bkgd} into Equation 8.1 for each hour of the dispersion model simulation.
5. Determine the frequency at which the 1-hour average impact assessment criteria are exceeded at each sensitive receptor with and without the subject source.
6. If additional exceedances of the impact assessment criteria are caused by the addition of the subject source, a more refined assessment should be undertaken and/or additional management practices or emission controls applied.

8.1.3 Method 3: NO to NO₂ conversion using empirical relationship

Janssen et al. (1988) developed an empirical equation for estimating the oxidation rate of NO in power plant plumes. The equation is dependent on distance downwind from the source and the parameters A and α and has the following form:

Equation 8.2

$$\text{NO}_2 / \text{NO}_x = A(1 - \exp(-\alpha x))$$

where:

x = the distance from the source

A and α are classified according to O₃ concentration, wind speed and season (Janssen et al. (1988) provides values for A and α).

Equation 8.2 can be used with various levels of refinement to calculate ground-level concentrations of NO₂.

Level 1 assessment: Maximum prediction and maximum background concentrations

1. Use a dispersion model to predict 1-hour average and annual ground-level concentrations of NO_x (as NO₂).
2. Assume 100% of the NO_x emitted is converted to NO₂.
3. Determine the distance of the maximum predicted 1-hour and annual average NO₂ ground-level concentrations from the source (x in Equation 8.2).
4. Determine the maximum 1-hour and annual average background concentrations of NO₂.
5. Calculate the ratio of NO₂ to NO_x by substituting x in Equation 8.2 and assuming worst-case values for A and α.
6. Determine the total ground-level concentration of NO₂ by applying the ratio of NO₂ to NO_x to the maximum predicted 1-hour and annual average NO₂ ground-level concentrations and adding the result to the maximum 1-hour and annual average background concentrations respectively.
7. If the impact assessment criteria are exceeded, a more refined assessment should be undertaken and/or additional management practices or emission controls applied.

Level 2 assessment: Contemporaneous prediction and background concentrations – 1-hour average

1. Use a dispersion model to predict 1-hour average and annual ground-level concentrations of NO_x (as NO₂).

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2. Assume 100% of the NO_x emitted is converted to NO₂.
3. For each hour of the dispersion model simulation, determine the distance of the maximum predicted 1-hour average NO₂ ground-level concentration from the source (x in Equation 8.2).
4. Obtain continuous 1-hour average ambient measurements of NO₂ for the same period as the dispersion modelling predictions.
5. For each hour of the dispersion model simulation, calculate the ratio of NO₂ to NO_x by substituting x and appropriate values for A and α in Equation 8.2.
6. Determine the total ground-level concentration of NO₂ for each hour of the dispersion model simulation by applying the ratio of NO₂ to NO_x to the predicted 1-hour average NO₂ ground-level concentration and adding the result to the 1-hour average background concentration.
7. Determine the frequency at which the 1-hour average impact assessment criteria are exceeded at each sensitive receptor with and without the subject source.
8. If additional exceedances of the impact assessment criteria are caused by the addition of the subject source, a more refined assessment should be undertaken and/or additional management practices or emission controls applied.

8.2 Detailed assessment of ozone and nitrogen dioxide

Before undertaking a quantitative assessment of photochemical smog, seek advice from DEC's Air Technical Advisory Services Unit. Some models that can provide a more detailed assessment of changes in ambient O₃ and NO₂ are outlined below.

8.2.1 Integrated Empirical Rate (IER) Reactive Plume Model

The CSIRO's IER-Reactive Plume Model (Johnson 1983; Johnson et al. 1990; Azzi et al. 1993; Azzi and Johnson 1994) can be used to provide a more refined assessment of the changes in ambient NO₂ concentrations than the methods specified above. The IER-Reactive Plume Model can also predict changes in ambient O₃ concentrations.

8.2.2 TAPM

CSIRO TAPM includes gas-phase photochemistry based on the semi-empirical mechanism, called the Generic Reaction Set (GRS). In chemistry mode, TAPM includes 10 reactions for the following 13 species: smog reactivity, radical pool, hydrogen peroxide (H₂O₂), NO, NO₂, O₃, SO₂, stable non-gaseous organic carbon, stable gaseous nitrogen products, stable non-gaseous nitrogen products, stable non-gaseous sulfur products, airborne particulate matter and fine particulate matter.

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9. Impact assessment report

An air quality impact assessment report must clearly document the methodology and result of the assessment. The EPA's minimum requirements regarding the information contained within an impact assessment report are specified below.

9.1 Site plan

- Layout of the site clearly showing all unit operations
- All emission sources clearly identified
- Plant boundary
- Sensitive receptors (e.g. nearest residences)
- Topography

9.2 Description of the activities carried out on the site

- A process flow diagram clearly showing all unit operations carried out on the premises
- A detailed discussion of all unit operations carried out on the site, including all possible operational variability
- A detailed list of all process inputs and outputs
- Plans, process flow diagrams and descriptions that clearly identify and explain all pollution control equipment and techniques for all processes on the premises
- A description of all aspects of the air emission control system, with particular regard to any fugitive emission capture systems (e.g. hooding, ducting), treatment systems (e.g. scrubbers, bag filters) and discharge systems (e.g. stacks)
- The operational parameters of all emission sources, including all operational variability, i.e. location, release type (stack, volume or area) and release parameters (e.g. stack height, stack diameter, exhaust velocity, temperature, emission concentration and rate)

9.3 Emissions inventory

- A detailed discussion of the methodology used to calculate the expected pollutant emission rates for each source
- All supporting reports of source emission tests. All analytical reports must contain all the information specified in Section 4 of DEC (2005).
- Methodologies used to sample and analyse for each of the pollutants considered
- Detailed calculations of pollutant emission rates for each source
- Tables showing all release parameters of stack and fugitive sources (e.g. temperature, exit velocity, stack dimensions, and emission concentrations and rates), and all pollutant emission concentrations with a comparison of the emission concentrations against the relevant requirements of the Regulation. A suggested format for the tables is provided in Tables 3.1, 3.2 and 3.3.

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9.4 Meteorological data

9.4.1 Level 1 meteorological data

- A description of the techniques used to prepare the meteorological data in a format for use in the dispersion modelling
- The meteorological data used in the dispersion modelling supplied in a *Microsoft* Windows-compatible format

9.4.2 Level 2 meteorological data

- A detailed discussion of the prevailing dispersion meteorology at the proposed site. The report should typically include wind rose diagrams; an analysis of wind speed, wind direction, stability class, ambient temperature and mixing height; and joint frequency distributions of wind speed and wind direction as a function of stability class.
- Demonstration that the site-representative data adequately describes the expected meteorological patterns at the site under investigation (e.g. wind speed, wind direction, ambient temperature, atmospheric stability class, inversion conditions and katabatic drift)
- A description of the techniques used to prepare the meteorological data into a format for use in the dispersion modelling
- A quality assurance and quality control analysis of the meteorological data used in the dispersion modelling. Provide and discuss any relevant results of this analysis.
- The meteorological data used in the dispersion modelling supplied in a *Microsoft* Windows-compatible format

9.5 Background air quality data

- Methods used to sample and analyse for each of the pollutants considered
- A detailed discussion of the methodology used to calculate the background concentrations for each pollutant
- Tables summarising the ambient monitoring data

9.6 Dispersion modelling

- A detailed discussion and justification of all parameters used in the dispersion modelling and the manner in which topography, building wake effects and other site-specific peculiarities that may affect plume dispersion have been treated
- A detailed discussion of the methodology used to account for any atmospheric pollutant formation and chemistry
- A detailed discussion of air quality impacts for all relevant pollutants, based on predicted ground-level concentrations at the plant boundary and beyond, and at all sensitive receptors
- Ground-level concentrations, hazard index and risk isopleths (contours) and tables summarising the predicted concentrations of all relevant pollutants at sensitive receptors
- All input, output and meteorological files used in the dispersion modelling supplied in a *Microsoft* Windows-compatible format

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9.7 Bibliography

DEC 2005, *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales*, Department of Environment and Conservation NSW, Sydney.

10. Emission limits

10.1 Legislation

The *Protection of the Environment Operations Act 1997* (POEO Act) is the major legislation governing environment protection in NSW. The Act is administered by the EPA.

Section 128 of the POEO Act makes it an offence for emissions of air impurities to exceed 'standards of concentration' as prescribed by the POEO Regulation. These standards are in-stack emission limits and are the maximum emissions permissible for an industrial source anywhere in NSW. These limits are based on levels that are achievable through the application of reasonably available technology and good environmental practices.

The emission limits in the POEO Regulation do not take into account site-specific features such as meteorology and background air quality, and therefore do not necessarily protect against adverse air quality impacts in the areas surrounding the premises. An objective shared by the EPA and the POEO Act is to reduce the risks to human health and the environment by reducing to harmless levels the discharge of substances into the air (section 6 of the *Protection of the Environment Administration Act 1991* and section 3 of the POEO Act). The impact of emissions on local air quality from premises is determined through an air quality impact assessment. The methods required by statute to be used to model and assess emissions of air pollutants from stationary sources in NSW are outlined in this document.

10.2 How does the EPA set emission limits in environment protection licences?

In an environment protection licence for a new or expanded industrial source:

1. **Emission limits reflect reasonably available technology and good environmental practice:** The POEO Regulation sets the maximum emissions permissible for an industrial source located anywhere in NSW. The Regulation limits are based on levels that are achievable through the application of reasonably available technology and good environmental practices.
2. **Emission limits reflect proper and efficient operation:** Consistent with the requirement of the POEO Act (section 124), it is EPA policy to prescribe emission limits that are consistent with the proper and efficient operation of plant and equipment. Depending on the plant and equipment, these levels can be lower than those prescribed by the POEO Regulation.
3. **Emission limits protect the health and amenity of the surrounding community:** This document sets out:
 - a. health- and amenity-based impact assessment criteria for the protection of ambient air quality
 - b. the process for assessing the impacts of air pollutant emissions on ambient air quality and the surrounding community.

Proponents of new or expanding developments must use this process to demonstrate that a proposed development will not adversely affect human health and amenity or the surrounding air quality.

By using the above three criteria, emission limits in a licence can be even more stringent than the requirements of the Regulation.

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10.3 What information does the EPA use to set emission limits?

The information submitted by the proponent or licensee in the impact assessment is used to set the emission limits in an environment protection licence. This includes the emission concentration and rates used in the dispersion modelling.

11. Worked examples

11.1 Developing site-specific emission limits

This section provides a worked example for developing a site-specific emission limit.

The example is for hydrogen sulfide, but the principles are equally applicable to other air pollutants that are regulated in NSW.

11.1.1 Scenario

A major industry is proposed to be located near Deniliquin (latitude 35.53°S, longitude 144.95°E).

Hydrogen sulfide will be emitted through a stack 40 metres high. The stack is more than 2.5 times as high as the nearest buildings located within 200 m, which is five times the stack height, meaning building wake effects are not likely to occur. The topography of the proposed site is dominated by flat terrain.

It is not practicable for this industry type to meet the Regulation emission limit for hydrogen sulfide of 5 mg/m³.

What would be an appropriate site-specific emission limit calculated using a Level 2 assessment?

11.1.2 Source characteristics

Source characteristics are summarised in Table 11.1.

Table 11.1: Worked example 1 – source characteristics

| | |
|---|---------------|
| Stack height (m) | 40 |
| Stack diameter (m) | 1 |
| Exhaust temperature (°C) | 180 |
| Exhaust velocity (m/s) | 20 |
| Building wake effects | No |
| Exhaust flow rate – Am ³ /s – Nm ³ /s | 15.71 9.47 |
| Hydrogen sulfide emission concentration – mg/Am ³ – mg/Nm ³ | 21.0 34.8 |
| Hydrogen sulfide emission rate (g/s) | 0.33 |
| Location | Rural |
| Terrain | Flat |
| Roughness height (m) | 0.3 |
| Location of nearest sensitive receptor (m) | 2950 |

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11.1.3 Methodology

Dispersion modelling was conducted using AUSPLUME v. 5.4. A Level 2 meteorological data file, prepared according to the requirements of Section 4.4, was used for the assessment.

Since the nearest sensitive receptor is located at a distance that is greater than 10 times the largest source dimension (i.e. 2950 m > 400 m or 10 times the stack height), far-field peak-to-mean ratios for a tall wake-free point from Table 6.1 are appropriate.

11.1.4 Results

A hydrogen sulfide emission concentration of 34.8 mg/Nm³ gave a maximum 100th percentile ground-level concentration of 4.22 µg/m³ at a distance of 2950 m from the stack. This is less than the impact assessment criterion for hydrogen sulfide of 4.83 µg/m³ at a single residence (see Table 7.4b).

Hence, an appropriate site-specific emission limit for hydrogen sulfide would be approximately 35 mg/Nm³.

11.2 Dealing with elevated background concentrations

11.2.1 Scenario

A mine is proposed to be located in a sparsely populated area. The nearest sensitive receptors are rural residential dwellings located to the north and west at distances of 1000 and 1500 m, respectively.

Background PM₁₀ levels are elevated. Accounting for background concentrations using the Level 1 assessment methodology results in exceedances of the PM₁₀ impact assessment criteria.

How are background concentrations taken into account using a Level 2 impact assessment?

11.2.2 Background ambient monitoring results

Ambient monitoring data for PM₁₀ are available from a nearby mine in a similar rural environment and have been shown to be site-representative.

This data can be summarised as:

Maximum 24-hour average: 41 µg/m³
Annual average: 22 µg/m³

11.2.3 Results of modelling

a. Level 1 assessment – Maximum impact

Dispersion modelling has been undertaken and 24-hour average and annual increments of PM₁₀ have been predicted at each sensitive receptor.

Table 11.2 presents the maximum impact (Section 5.1.1, Level 1 assessment).

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Table 11.2: Worked example 2 – Maximum impact

| Particulates (PM ₁₀) | Predicted concentrations (µg/m ³) maximum impact (increment) | | Impact assessment criteria (µg/m ³) |
|----------------------------------|---|----------------|---|
| | A: 1000 m north | B: 1500 m west | |
| 24-hour average | 63 (22) | 49 (8) | 50 |
| Annual average | 28 (6) | 23 (1) | 30 |

The dispersion modelling results indicate that:

- The maximum impact at receptor A (shown in bold) is likely to exceed the 24-hour average impact assessment criterion. Further assessment is required.
- The 24-hour and annual average impact assessment criteria are not likely to be exceeded at receptor B. No additional assessment is required.

b. Level 2 assessment – Contemporaneous impact and background

To refine the assessment at receptor A, each individual dispersion model prediction is added to the corresponding measured background concentration (Section 5.1.1, Level 2 assessment).

From this refined analysis, no additional exceedances of the 24-hour average impact assessment criterion (50 µg/m³) are likely.

The results of this analysis are summarised in Table 11.3.

The left side of the table shows the total predicted concentration on days with the highest background, and the right side shows the total predicted concentration on days with the highest predicted incremental glcs.

No additional assessment is required.

Table 11.3: Worked example 2 – Summary of contemporaneous impact and background

| Date | PM ₁₀ 24-hour average (µg/m ³) | | | Date | PM ₁₀ 24-hour average (µg/m ³) | | |
|----------|---|---------------------|-------|----------|---|-----------------------------|-------|
| | Background | Predicted increment | Total | | Background | Highest predicted increment | Total |
| 27/01/01 | 41 | 5 | 46 | 23/05/01 | 20 | 22 | 42 |
| 26/01/01 | 40 | 3 | 43 | 15/09/01 | 21 | 18 | 39 |
| 08/10/01 | 40 | 5 | 45 | 25/09/01 | 15 | 17 | 32 |
| 04/03/01 | 38 | 8 | 46 | 24/02/01 | 30 | 17 | 47 |
| 02/02/01 | 37 | 10 | 47 | 04/01/01 | 34 | 15 | 49 |
| 31/05/01 | 36 | 12 | 48 | 12/04/01 | 29 | 14 | 43 |
| 06/08/01 | 34 | 10 | 44 | 14/11/01 | 34 | 13 | 47 |
| 09/10/01 | 34 | 8 | 42 | 13/02/01 | 30 | 11 | 41 |

In cases where additional exceedances might be predicted at a receptor, the applicant should either:

1. review site selection and/or apply more effective mitigation measures or emission controls that reduce emissions to a greater extent, and revise the impact assessment, or

Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales

2. if emissions and impacts have been reduced as far as they can, consider whether there are opportunities to mitigate impacts through other measures such as negotiated agreements and/or acquisition of sensitive receptors.

12. Conversion factors

The physical state of gaseous air pollutants at atmospheric concentrations may be described by the ideal gas law:

Equation 12.1: Ideal gas law

$$pv = nRT$$

where:

p = absolute pressure of gas (atm)

v = volume of gas (L)

n = number of moles of gas (mol)

R = universal gas constant (L.atm/mol.K)

T = absolute temperature (K)

The number of moles (n) may be calculated from the weight of a pollutant (W) and its molecular weight (m) by:

Equation 12.2

$$n = W / m$$

Substituting Equation 12.2 into Equation 12.1 and rearranging terms yields:

Equation 12.3

$$v = WRT / pm$$

Parts per million (ppm) refers to the volume of pollutant (v) per million volumes of air (V):

Equation 12.4

$$\text{ppm} = v/V \times 10^6$$

Substituting Equation 12.3 into Equation 12.4 yields:

Equation 12.5: Conversion from volume to mass units of concentration

$$\text{ppm} = (W / V) \times RT / pm \times 10^6$$

Using the appropriate values for the variables in Equation 12.5, a conversion from volume to mass units of concentration for carbon monoxide may be derived as shown below:

$$T = 298.15 \text{ K (25°C)}$$

$$P = 1 \text{ atm}$$

$$M = 28 \text{ g/mol}$$

$$R = 0.08205 \text{ L.atm/mol.K}$$

$$\text{ppm} = \frac{W(\text{g}) \times 10^3 (\text{mg/g})}{V(\text{l})} \times \frac{0.08205(\text{L.atm/mol.K}) \times 298.15(\text{K})}{1(\text{atm}) \times 28(\text{g/mol}) \times 10^6}$$

$$1 \text{ ppm} = 1.15 \text{ mg/m}^3$$

$$1 \text{ mg/m}^3 = 0.873 \text{ ppm}$$

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Table 12.1 contains some common conversion factors for the criteria air pollutants.

Table 12.1: Common conversion factors for criteria air pollutants

| Pollutant | Units | To convert to: | Multiply by: |
|-------------------------------------|-------------------------|--------------------------|--------------|
| Ozone (O ₃) | pphm | µg/m ³ (0°C) | 21.4 |
| | | µg/m ³ (25°C) | 19.6 |
| Nitric oxide (NO) | pphm | µg/m ³ (0°C) | 13.4 |
| | | µg/m ³ (25°C) | 12.3 |
| Nitrogen dioxide (NO ₂) | pphm | µg/m ³ (0°C) | 20.5 |
| | | µg/m ³ (25°C) | 18.8 |
| Sulfur dioxide (SO ₂) | pphm | µg/m ³ (0°C) | 28.6 |
| | | µg/m ³ (25°C) | 26.2 |
| Lead (Pb) | µg/m ³ (0°C) | µg/m ³ (25°C) | 0.92 |
| Carbon monoxide (CO) | Ppm | mg/m ³ (0°C) | 1.25 |
| | | mg/m ³ (25°C) | 1.15 |

13. Glossary

| | |
|--------------------------------|--|
| Affected zone | The area within which the impact assessment criteria are likely to be exceeded, and unacceptable air quality impacts may result |
| Am³ | Actual cubic metre; the volume of gas that occupies a volume of 1 m ³ at stack discharge conditions |
| AUSPLUME | EPA Victoria's Gaussian dispersion model |
| Background levels | Existing concentrations of pollutants in the ambient air |
| BPIP | Building Profile Input Program (USEPA software used to generate data for AUSPLUME to account for building wake effects) |
| Building wake effects | The effect on plume dispersion caused by the presence of buildings near a stack, usually resulting in increased ground-level concentrations of pollutants |
| C | Convective atmospheric conditions |
| °C | Temperature in degrees Celsius |
| C_p | Peak concentration |
| CALPUFF | A multi-layer, multi-species, non-steady-state Gaussian puff dispersion model that is able to simulate the effects of time- and space-varying meteorological conditions on pollutant transport |
| Criteria air pollutants | The pollutants sulfur dioxide, nitrogen dioxide, ozone, PM ₁₀ , lead and carbon monoxide |
| CSIRO | Commonwealth Scientific and Industrial Research Organisation |
| Deposition velocity | The ratio of deposition at the surface (g/m ² /s) to its concentration in the atmosphere (g/m ³) for a particular substance |
| Diffuse source | Activities that are generally dominated by fugitive area or volume-source emissions of odour, which can be relatively difficult to control, such as wastewater treatment plants |
| Dispersion modelling | Modelling by computer to mathematically simulate the effect on plume dispersion under varying atmospheric conditions; used to calculate spatial and temporal fields of concentrations and particle deposition due to emissions from various source types |
| DEC | Department of Environment and Conservation NSW |
| Ensemble mean | The average of a predicted variable over an ensemble of forecasts |
| EPA | NSW Environment Protection Authority (now incorporated into DEC) |
| Far-field | The far-field region is the zone where plume rise and meandering have fully occurred and the plume is well mixed in the vertical plane from ground level to the base of the first temperature inversion |
| g | Mass in grams |
| glc | Ground-level concentration |
| glc criteria | Criteria for individual odorous or toxic air pollutants; specified in mg/m ³ or ppm as a 3-minute average |

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| | |
|---------------------------|--|
| IARC | International Agency for Research on Cancer |
| IER | CSIRO's Integrated Empirical Rate model |
| Incremental impact | The impact due to an emission source (or group of sources) in isolation, i.e. without including background levels |
| K | Temperature in kelvins |
| kPa | Pressure in kilopascals |
| L | Monin–Obukhov length, which characterises the stability of the surface layer |
| Level 1 | A screening dispersion modelling procedure |
| Level 2 | A refined dispersion modelling procedure |
| M | Length in metres |
| m³ | Volume in cubic metres |
| µg | Mass in micrograms |
| Mid-field | The mid-field region is the zone where source characteristics are important but not dominant |
| mg | Mass in milligrams |
| Near-field | The near field is the zone where source structure directly affects plume dispersion. The near field is typically 10 times the largest source dimension, either height or width. |
| Nm³ | Normal cubic metre; the volume of dry gas that occupies a volume of 1 m ³ at a temperature of 273.15 K (0°C) and an absolute pressure of 101.3 kPa |
| NO_x | Oxides of nitrogen, including NO and NO ₂ |
| OLM | USEPA's Ozone Limiting Method |
| OU | Odour units; indicates concentration of odorous mixtures. The number of odour units is the concentration of a sample divided by the odour threshold or the number of dilutions required for the sample to reach the threshold. This threshold is the numerical value equivalent to when 50% of a testing panel correctly detect an odour. For complex mixtures of odours, odour is specified in OU/m ³ (odour units per cubic metre) as a nose-response-time average. |
| OU/m³ | Odour units per cubic metre |
| PAH | Polycyclic aromatic hydrocarbon |
| Peak-to-mean ratio | A conversion factor that adjusts mean dispersion model predictions to the peak concentrations perceived by the human nose |
| PEF | Potency equivalency factor |
| pphm | Concentration in parts per hundred million |
| ppm | Concentration in parts per million |
| PM₁₀ | Particulate matter less than 10 µm in aerodynamic equivalent diameter |

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| | |
|----------------------------|---|
| PM_{2.5} | Particulate matter less than 2.5 µm in aerodynamic equivalent diameter |
| Point source | Source of emissions of odour, generally a stack. Emissions can generally be relatively easily controlled by using waste reduction, waste minimisation and cleaner production principles or conventional emission control equipment. |
| Sensitive receptor | A location where people are likely to work or reside; this may include a dwelling, school, hospital, office or public recreational area. An air quality impact assessment should also consider the location of known or likely future sensitive receptors. For hydrogen fluoride, a sensitive receptor includes land-use areas with vegetation sensitive to hydrogen fluoride such as grapevines and stone fruit. |
| Separation distance | The distance between a source and sensitive receptors (or likely future sensitive receptors) |
| Source separation | The distance between two emission sources |
| σ | Standard deviation |
| σ_y | Initial horizontal plume spread for volume sources |
| σ_z | Initial vertical plume spread for volume sources |
| Stack | A vertical pipe used to vent pollutants from a process |
| Stationary source | Any premises-based activity; does not include motor vehicles |
| TAPM | CSIRO's PC-based, 3-D prognostic model for air pollution studies |
| Total impact | The total impact of an emission source (or group of sources) and existing ambient levels of a pollutant; i.e. total impact = background levels + incremental impact |
| TSP | Total suspended particulate [matter] |
| USEPA | United States Environmental Protection Agency |
| VOC | Volatile organic compound |

Approved Methods

for the Sampling and Analysis of Air Pollutants in New South Wales



Department of
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Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales

1. Introduction

Purpose of methods

This document lists the methods to be used for the sampling and analysis of air pollutants in New South Wales for statutory purposes. The document covers:

- pollutant emissions from stationary sources
- pollutant emissions from motor vehicles
- components in and properties of petroleum products
- pollutants in ambient air.

Relevant legislation

This document is referred to in:

- the Protection of the Environment Operations (Clean Air) Regulation 2002, Part 4 Emission of Air Impurities from Activities and Plant
- the Protection of the Environment Operations (Clean Air) Regulation 2002, Part 5 Motor Vehicles and Motor Vehicle Fuels
- the Protection of the Environment Operations (General) Regulation 1998.

It may also be referred to in conditions attached to statutory instruments, such as licences or notices, issued under environment protection legislation, as defined in the *Protection of the Environment Operations Act 1997*.

Industry has an obligation to ensure compliance with limits specified in the Protection of the Environment Operations (Clean Air) Regulation 2002, Part 4 Emission of Air Impurities from Activities and Plant and Part 5 Motor Vehicles and Motor Vehicle Fuels, and certain statutory instruments. All monitoring to show compliance must be done in one of three ways:

- in accordance with the methods specified in this document
- in accordance with the methods specified in the relevant statutory instrument
- if no method is specified in either this document or the statutory instrument, in a manner approved by the EPA in writing before any tests are conducted.

Exceptional circumstances

In exceptional circumstances, the EPA may approve the use of alternative methods to those provided here. An application for approval of a test method (TM), continuous emissions monitoring method (CEM), other approved method (OM) or ambient monitoring method (AM) as an equivalent alternative to a method in this document (the 'approved method') must be made in writing to the Chief Scientist, Environment Protection Authority.

The application must:

- demonstrate that there are exceptional circumstances that justify the use of a method other than the approved method
- give comprehensive technical details of the alternative method for which approval is sought
- show that the alternative method is scientifically sound

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- show that the alternative method would produce results comparable to those produced by the approved method. This involves establishing method equivalency, by following the procedure outlined in USEPA Method 301, including the optional sections where appropriate.

The EPA will not approve an alternative to a specified TM, CEM, OM or AM unless it is satisfied that the application for approval gives adequate details of the proposed alternative method as listed above.

Any other method, which has been approved by the EPA in accordance with the approval procedures set out above as an equivalent alternative to a TM, CEM, OM or AM of a particular number in this document, is prescribed as an approved method of that same number.

2. Sample collection and handling

Stationary source monitoring

Collect, handle and preserve samples according to the relevant test method. Collect them at the locations determined in accordance with the relevant regulation or specified in the statutory instrument, as the case may be. If the regulation does not provide for determination of the locations or if no locations are specified in the instrument, collect them from locations where they are representative of the total or known portion of the source emissions.

Whenever a United States Environmental Protection Agency (USEPA) test method refers to USEPA (2000) Method 1, Standards Association of Australia AS 4323.1–1995 must be substituted, except under approved circumstances. Whenever a USEPA test method refers to USEPA (2000) Method 5, AS 4323.2–1995 must be substituted, except under approved circumstances. Approved circumstances are defined in the following section.

Approved circumstances

The following table defines the approved circumstances for the use of AS 4323.1–1995, USEPA (2000) Method 1, AS 4323.2–1995 and USEPA (2000) Method 5.

| Group | TM-1 | | TM-15 | |
|------------------|-------------------------|---------------------------------|-------------------------|---------------------------------|
| | AS 4323.1–1995 | USEPA (2000) Method 1 | AS 4323.2–1995 | USEPA (2000) Method 5 |
| 1, 2, 3, 4 and A | Under all circumstances | Under all circumstances | Under all circumstances | Under all circumstances |
| 5 and B | Under all circumstances | Under exceptional circumstances | Under all circumstances | Under exceptional circumstances |
| 6 and C | Under all circumstances | Under no circumstances | Under all circumstances | Under no circumstances |

Note: 'Group', in relation to any activity or plant, means the group to which the activity or plant belongs pursuant to its classification prescribed in the Protection of the Environment Operations (Clean Air) Regulation 2002, Part 4 Emission of Air Impurities from Activities and Plant, Division 2 and Division 3.

Ambient air monitoring

When siting ambient air monitoring equipment, follow AS 2922–1987. Monitoring sites are classified into three types: peak, neighbourhood or background. When selecting a monitoring site, many parameters need to be considered, including, locality, terrain, meteorology, emission sources, possible chemical or physical interference, availability of services and site security. Try to co-locate meteorological monitoring equipment and ambient air monitoring equipment unless site-representative meteorological data is available from another nearby meteorological monitoring site.

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3. Methods for sampling and analysis

Analyses should be carried out by a laboratory accredited to perform them by an independent accreditation body acceptable to the EPA, such as the National Association of Testing Authorities (NATA).

Methods approved by the EPA for specific analytes and parameters are listed in Tables 1 to 3. In most cases, standard methods are referenced, with additional guidance or clarification given if needed. Where there is no suitable published method, a complete description of the approved method is given. Refer to Appendix X: Test method sources for the organisations that publish the approved methods.

Refer to Appendix I: Definitions and generic procedures that apply to stationary source monitoring and reporting.

Table 1: Methods for the sampling and analysis of air pollutants from stationary sources in NSW

A. Test methods (TM) prescribed for the purposes of the Protection of the Environment Operations (Clean Air) Regulation 2002, Part 4 Emission of Air Impurities from Activities and Plant

| Method no. | Parameter measured | Method |
|------------|--|---|
| TM-1 | Selection of sampling positions | AS 4323.1–1995 or USEPA (2000) Method 1 under approved circumstances |
| TM-2 | Velocity or volumetric flow rate or temperature or pressure of stack gases | USEPA (2000) Method 2 or 2C or USEPA (1999) Method 2F or 2G or 2H (as appropriate) |
| TM-3 | Sulfuric acid mist (H ₂ SO ₄) or sulfur trioxide (SO ₃) | USEPA (2000) Method 8 (for sampling and analysis) or APHA (1998) Method 4110B (for analysis only if interference from fluorides, free ammonia and/or dimethyl aniline has been demonstrated to the satisfaction of the Chief Scientist, EPA) (as appropriate) |
| TM-4 | Sulfur dioxide (SO ₂) | USEPA (2000) Method 6 or 6A or 6B or USEPA (1996) Method 6C or ISO (1989) Method 7934 or ISO (1992) Method 7935 or ISO (1993) Method 10396 or ISO (1998) Method 11632 (as appropriate) |
| TM-5 | Hydrogen sulfide (H ₂ S) | USEPA (2000) Method 11 or USEPA (2000) Method 15 or USEPA (2000) Method 16 or Environment Canada (1992) Reference Method EPS1/RM/6 (as appropriate) |
| TM-6 | Sulfur (S) in petroleum products | ASTM (2002) D4294-02 or ASTM (1998) D2622-98 or ASTM (2000) D129-00 (as appropriate) |
| TM-7 | Chlorine (Cl ₂) | USEPA (2000) 26A |
| TM-8 | Hydrogen chloride (HCl) | USEPA (2000) 26 |

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| Method no. | Parameter measured | Method |
|------------|--|--|
| TM-9 | Fluorine (F ₂) or any compound containing fluorine, except where emitted by a primary aluminium smelter while manufacturing aluminium from alumina | USEPA (2000) Method 13A or 13B (as appropriate) |
| TM-10 | Hydrogen fluoride (HF) emitted by a primary aluminium smelter while manufacturing aluminium from alumina | USEPA (2000) Method 14 or USEPA (1997) Method 14A (as appropriate) |
| TM-11 | Nitrogen dioxide (NO ₂) or nitric oxide (NO) | USEPA (2000) Method 7 or 7A or 7B or 7C or 7D or USEPA (1990) Method 7E or USEPA (1996) Method 20 or ISO (1993) Method 10396 (as appropriate). NO _x analysers may be substituted in Method 7E provided the performance specifications of the method are met. Both NO and NO _x must be directly measured. |
| TM-12 | Type 1 substances (elements antimony (Sb), arsenic (As), cadmium (Cd), lead (Pb) or mercury (Hg) or any compound containing one or more of those elements) | USEPA (2000) Method 29 or USEPA (2000) Method 102 (for mercury only in hydrogen-rich streams) (as appropriate) |
| TM-13 | Type 2 substances (elements beryllium (Be), chromium (Cr), cobalt (Co), manganese (Mn), nickel (Ni), selenium (Se), tin (Sn) or vanadium (V) or any compound containing one or more of those elements) | USEPA (2000) Method 29 (Analysis for tin and vanadium to be done by Inductively Coupled Argon Plasma Emission Spectroscopy (ICAP) as defined in USEPA Method 29) or USEPA (2000) Method 7910 (for vanadium only) or USEPA (2000) Method 7911 (for vanadium only) (as appropriate) |
| TM-14 | Cadmium (Cd) or mercury (Hg) or any compound containing one or more of those elements | USEPA (2000) Method 29 or USEPA (2000) Method 102 (for mercury only in hydrogen-rich streams) (as appropriate) |
| TM-15 | Solid particles (Total) | AS 4323.2–1995 or USEPA (2000) Method 5 under approved circumstances |
| TM-16 | Smoke (if determining whether a specified Ringelmann standard has been exceeded) | AS 3543–1989 |
| TM-18 | Dioxins or furans | USEPA (1995) Method 23 (Duration of sampling must be between 6 and 16 hours. Several discrete samples may be taken such that the total sampling time is within the specified range but sampling time for each point must comply with TM-15.) |
| TM-19 | Volatile organic liquids: total mass of unburnt organic vapours, displaced by the transfer of volatile organic liquids from vapour disposal units | Appendix II: Test method 19 |

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| Method no. | Parameter measured | Method |
|-----------------------------|---|--|
| TM-20 | Volatile organic liquids: total mass of unrecovered organic vapours, displaced by the transfer of volatile organic liquids from vapour recovery units | Appendix III: Test method 20 |
| TM-21 | Volatile organic liquids: calculation of vapour pressure | Appendix IV: Test method 21 |
| TM-22 | Moisture content in stack gases | USEPA (2000) Method 4 |
| TM-23 | Dry gas density or molecular weight of stack gases | USEPA (2000) Method 3 |
| TM-24 | Carbon dioxide (CO ₂) in stack gases | USEPA (1990) Method 3A |
| TM-25 | Oxygen (O ₂) in stack gases | USEPA (1990) Method 3A |
| TM-32 (formerly OM-1) | Carbon monoxide (CO) | USEPA (1996) Method 10 |
| TM-33 | Total reduced sulfides (TRS) | USEPA (2000) Method 16A or 16B (as appropriate) |
| TM-34 (formerly OM-2) | Volatile organic compounds | USEPA (2000) Method 18 or USEPA (2000) Method 25 or 25A or 25B or 25C or 25D or 25E (as appropriate) |
| TM-35 | Methanol | USEPA (1997) Method 308 |
| TM-37 | Smoke (if determining whether standard for emission of smoke from flares has been exceeded) | USEPA (2000) Method 22 |
| TM-38 | Combination of air impurities from two or more sources | Appendix VIII: Test method 38 |

Note: Any other method, which has been approved by the EPA in accordance with the exceptional circumstances set out in this document as an equivalent alternative to a test method of a particular number in this document, is prescribed as a test method of that same number.

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B. Continuous emission monitoring methods (CEM) prescribed for the purposes of the Protection of the Environment Operations (Clean Air) Regulation 2002, Part 4 Emission of Air Impurities from Activities and Plant

| Method no. | Parameter measured | Method |
|------------|---|---|
| CEM-1 | Smoke (if determining whether a specified standard of concentration of opacity has been exceeded) | USEPA (2000) Performance Specification 1 |
| CEM-2 | Sulfur dioxide (SO ₂) or nitrogen dioxide (NO ₂) or nitric oxide (NO) | USEPA (2000) Performance Specification 2 |
| CEM-3 | Oxygen (O ₂) or carbon dioxide (CO ₂) in stack gases | USEPA (2000) Performance Specification 3 |
| CEM-4 | Carbon monoxide (CO) | USEPA (2000) Performance Specification 4 |
| CEM-5 | Total reduced sulfides (TRS) | USEPA (2000) Performance Specification 5 |
| CEM-6 | Velocity or volumetric flow rate of stack gases | USEPA (2000) Performance Specification 6 |
| CEM-7 | Hydrogen sulfide (H ₂ S) | USEPA (2000) Performance Specification 7 |
| CEM-8 | Volatile organic compounds or methanol | USEPA (2000) Performance Specification 8 |
| CEM-9 | Volatile organic compounds or methanol | USEPA (2000) Performance Specification 9 |
| CEM-10 | Volatile organic compounds or methanol | USEPA (2000) Performance Specification 15 |

Note: Any other method, which has been approved by the EPA in accordance with the exceptional circumstances set out in this document as an equivalent alternative to a test method of a particular number in this document, is prescribed as a test method of that same number.

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C. Other approved methods (OM)

| Method no. | Parameter measured | Method |
|-------------------|--|---|
| OM-3 | Total or hexavalent chromium emissions from decorative and hard chromium electroplating and anodising operations | USEPA (2000) Method 306 |
| OM-4 | Total and hexavalent chromium emissions | California EPA Air Resources Board (1997) Method 425 or USEPA (1996) Method 0061 (as appropriate). (Method 0061 is validated for determination of hexavalent chromium from hazardous waste incinerators, municipal waste incinerators, municipal waste combustors and sewage sludge incinerators) |
| OM-5 | 'Fine' particulates (PM ₁₀) | USEPA (1997) Method 201 or 201A (as appropriate) |
| OM-6 | Polycyclic aromatic hydrocarbons (PAHs) | California EPA Air Resources Board (1997) Method 429 |
| OM-7 | Odour sampling from point sources or odour analysis using dynamic olfactometry | AS 4323.3-2001 |
| OM-8 | Odour sampling from diffuse sources | USEPA (1986) EPA/600/8-8E/008 |
| OM-9 | 'Coarse' particulates | Appendix IX: Other approved method 9 |

Note: Any other method, which has been approved by the EPA in accordance with the exceptional circumstances set out in this document as an equivalent alternative to a test method of a particular number in this document, is prescribed as a test method of that same number.

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Table 2: Methods for the sampling and analysis of air pollutants from mobile sources and motor vehicle fuels in NSW**A. Test methods (TM) prescribed for the purposes of the Protection of the Environment Operations (Clean Air) Regulation 2002, Part 5 Motor Vehicles and Motor Vehicle Fuels**

| Method no. | Parameter measured | Method |
|------------|---|--|
| TM-26 | Exhaust and evaporative emissions from spark-ignition motor vehicles | Federal Office of Road Safety ADR 37/00 (1989) or ADR 37/01 (1995) (as appropriate). Refer to Appendix V: Test method 26 for additional guidance |
| TM-27 | Lead concentration in leaded and unleaded petrol | Appendix VI: Test method 27 |
| TM-28 | Phosphorus concentration in unleaded petrol | ASTM (1994) D3231-94 |
| TM-29 | Research octane number of unleaded petrol | ASTM (1997) D2699-97 |
| TM-30 | Motor octane number of unleaded petrol | ASTM (1997) D2700-97 |
| TM-31 | Observation procedure for excessive air impurities: visible emissions | Appendix VII: Test method 31 |

Note: Any other method, which has been approved by the EPA in accordance with the exceptional circumstances set out in this document as an equivalent alternative to a test method of a particular number in this document, is prescribed as a test method of that same number.

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Table 3: Methods for the sampling and analysis of ambient air pollutants in NSW**A. General methods for ambient air monitoring (AM)**

| Method no. | Parameter measured | Method |
|-------------------|--|---|
| AM-1 | Guide for the siting of sampling units | AS 2922–1987 |
| AM-2 | Guide for measurement of horizontal wind for air quality applications | AS 2923–1987 |
| AM-3 | Preparation of reference test atmospheres | AS 3580.2.1–1990 or AS 3580.2.2–1990 (as appropriate) |
| AM-4 | Meteorological monitoring guidance for regulatory modelling applications | USEPA (2000) EPA 454/R-99-005 |

Note: Any other method, which has been approved by the EPA in accordance with the exceptional circumstances set out in this document as an equivalent alternative to a test method of a particular number in this document, is prescribed as a test method of that same number.

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B. Specific methods for ambient air monitoring (AM)

| Method no. | Parameter measured | Method |
|------------|---|-------------------|
| AM-5 | Acid gases | AS 3580.3.1–1990 |
| AM-6 | Carbon monoxide | AS 3580.7.1–1992 |
| AM-7 | Fluorides – automated, double paper tape sampling method | AS 3580.13.1–1993 |
| AM-8 | Fluorides – manual, double filter paper sampling method | AS 3580.13.2–1991 |
| AM-9 | Fluorides –sodium acetate coated tube absorption method | AS 3580.13.3–1993 |
| AM-10 | Hydrogen sulfide | AS 3580.8.1–1990 |
| AM-11 | Lead – particulate collection by high-volume sampler | AS 2800–1985 |
| AM-12 | Nitrogen oxides | AS 3580.5.1–1993 |
| AM-13 | Ozone | AS 3580.6.1–1990 |
| AM-14 | Particulate matter – suspended matter – filter paper soiling method | AS 2724.2–1987 |
| AM-15 | Particulate matter – TSP – high-volume sampler method | AS 2724.3–1984 |
| AM-16 | Particulate matter – light scattering – integrating nephelometer method | AS 2724.4–1987 |
| AM-17 | Particulate matter – impinged matter – directional dust gauge method | AS 2724.5–1987 |
| AM-18 | Particulate matter – PM ₁₀ – high-volume sampler with size-selective inlet | AS 3580.9.6–1990 |
| AM-19 | Particulates – deposited matter – gravimetric method | AS 3580.10.1–1991 |
| AM-20 | Sulfur dioxide | AS 3580.4.1–1990 |
| AM-21 | Volatile organic compounds | AS 3580.11.1–1993 |
| AM-22 | Particulate matter – PM ₁₀ – TEOM | AS 3580.9.8–2001 |

Note: Any other method, which has been approved by the EPA in accordance with the exceptional circumstances set out in this document as an equivalent alternative to a test method of a particular number in this document, is prescribed as a test method of that same number

4. Analytical report

Stationary source monitoring

The results of any monitoring required by a statutory instrument must be provided as a summary report signed by the licence holder or, where there is no licence, by the person required to provide the report. The report must contain at least the following information for each air contaminant, unless the statutory instrument states otherwise:

- name and address of reporting organisation or individual
- date of issue of the report
- date, time and place of measurements
- identification of source tested
- test method used and details of any deviation from that method
- details of source or process operating conditions during sampling and a statement about the representativeness of the sample taken
- location of sampling plane, with respect to the nearest upstream and downstream flow disturbances
- number of sampling points
- period of sampling (start and end times)
- average stack gas velocity in metres per second
- average stack gas temperature in kelvins
- contaminant molecular weight or density in kilograms per cubic metre
- water content of stack gas, expressed as a percentage by volume
- stack gas volumetric flow rate on a dry basis under standard conditions in cubic metres per second
- concentration of contaminant on a dry basis under standard conditions in grams per cubic metre
- mass emission rate of contaminant on a dry basis under standard conditions in grams per second
- details of sample preservation, if applicable
- any factors that may have affected the monitoring results
- the precision of the results (using AS 2706 as a guide)
- details of the most recent calibration of each instrument used to take measurements.

If an air contaminant cannot be detected, results must not be quoted as zero but as less than the method's limit of detection.

All volumes and concentrations are normally reported as dry at a temperature of 0°C and at an absolute pressure of 101.3 kilopascals (kPa). The EPA's monitoring requirements may also specify a reference gas level to which the result must be corrected.

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Ambient air monitoring

The results of any monitoring required by a statutory instrument must be provided as a summary report signed by the licence holder or, where there is no licence, by the person required to provide the report. The report must contain at least the following information for each air contaminant, unless the statutory instrument states otherwise:

- name and address of reporting organisation or individual
- date of issue of the report
- test method used and details of any deviation from that method
- period of monitoring (start and end dates and percentage of time the instruments were on-line)
- location of monitoring points (normal address and Australian Map Grid reference, height above nominal ground level, and a description of the terrain features)
- air pollutants measured, the monitoring instruments used, and a description of the air sampling system
- maximum hourly average concentration, daily average concentration, and appropriate longer-term averages
- appropriate statistical information to describe the variability and range of the concentrations
- any factors that may have affected the monitoring results
- the precision of the results (using AS 2706 as a guide)
- details of the most recent calibration of each instrument used to take measurements.

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Appendix I: Definitions and generic procedures that apply to stationary source monitoring and reporting

Cubic metre (m³)

In this document a cubic metre (m³) refers to the volume of dry gas that occupies 1 m³ at a temperature of 0°C (273 K) and at an absolute pressure equivalent to 1 atmosphere (101.3 kPa).

Measuring concentrations and volumes in gases

When reporting concentrations of pollutants in gases for comparison with emission standards or with limits in regulations, licences, approvals, statutory notices, guidelines, codes of practice or environmental management plans, the following conversions must be used. However, where any of these conversions are part of the test method used to determine the concentration, they do not need to be repeated for reporting.

The test method for a pollutant gives the volume of gas sampled at the test conditions (i.e. moisture, temperature, pressure, oxygen and carbon dioxide, etc.) at the sample point, V_a.

Adjustment to reference conditions

1. Dry basis

Calculate the volume of dry gas at sample point conditions (V_b):

$$V_b = V_a \times (100 - MC) \div 100$$

2. Standard temperature

Calculate the volume of dry gas at standard temperature (273 K) (V_c):

$$V_c = V_b \times 273 \div (273 + \text{gas meter temperature in } ^\circ\text{C})$$

3. Standard pressure

Calculate the volume of dry gas at standard pressure (101.3 kPa) (V_d):

$$V_d = V_c \times (\text{gas meter pressure in kPa}) \div 101.3$$

4. Determine concentration as dry basis, standard temperature and standard pressure

Divide the measured mass of pollutant (M_a) by V_d to determine the concentration (C_a):

$$C_a = M_a \div V_d$$

5. Oxygen

For adjustment to an oxygen reference, the adjusted concentration of a pollutant, C_b, is determined by:

$$C_b = C_a \times (21 - \text{reference oxygen concentration as volume } \%) \div (21 - \text{measured oxygen concentration as volume } \%)$$

where:

C_a = the measured concentration of the pollutant, reported at the standard reference conditions

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6. Carbon dioxide

For adjustment to a carbon dioxide reference, the adjusted concentration of a pollutant, C_c , is determined by:

$$C_c = C_a \times 12 \div \text{measured carbon dioxide concentration as volume \%}$$

where:

C_a = the measured concentration of the pollutant, reported at the standard reference conditions

7. Nitrogen dioxide

Oxides of nitrogen (NO_x) from combustion of fossil fuels consist predominantly of nitric oxide (NO) and nitrogen dioxide (NO_2). Oxides of nitrogen concentrations are converted to equivalent NO_2 as follows:

$$\text{Equivalent NO}_2 = \text{calculated NO}_2 + (\text{measured NO} \times 46 \div 30)$$

where:

calculated NO_2 = measured NO_x – measured NO

46 = molecular weight of NO_2

30 = molecular weight of NO

Both NO and NO_x must be measured directly.

Conversion from volume- to mass-based units of concentration

Equation 1: Ideal gas law

The physical state of gaseous air pollutants at environmental concentrations may be described by the ideal gas law, as follows:

$$P \times V = n \times R \times T$$

where:

P = absolute pressure of gas (atm)

V = volume of gas (L)

N = number of moles of gas (mol)

R = universal gas constant (L.atm/mol.K)

T = absolute temperature (K)

Equation 2

The number of moles (n) may be calculated from the mass of a pollutant (m) and its molecular weight (MW) as follows:

$$n = m/MW$$

Equation 3

Substituting Equation 2 into Equation 1 and rearranging terms yields:

$$V = m \times R \times T/P \times MW$$

Equation 4

Parts per million (ppm) refers to the volume of pollutant (V) per million volumes of air (A):

$$\text{ppm} = V/A \times 10^6$$

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Equation 5: Conversion from volume-to mass-based units of concentration

Substituting Equation 3 into Equation 4 yields:

$$ppm = \frac{m}{A} \frac{R \times T}{P \times MW \times 10^6}$$

Using the appropriate values for the variables in Equation 5, a conversion from volume- to mass-based units of concentration for carbon monoxide may be derived as shown below:

$$T = 298.15 \text{ K (25 } ^\circ\text{C)}$$

$$P = 1 \text{ atm}$$

$$MW = 28 \text{ g/mol}$$

$$R = 0.08205 \text{ L.atm/mol.K}$$

$$ppm = \frac{m(\text{g}) \times 10^3(\text{mg/g})}{A(\text{l})} \times \frac{0.08205(\text{L.atm/mol.K}) \times 298.15(\text{K})}{1(\text{atm}) \times 28(\text{g/mol}) \times 10^6}$$

$$1 \text{ ppm} = 1.15 \text{ mg/m}^3$$

$$1 \text{ mg/m}^3 = 0.873 \text{ ppm}$$

Conversions at 273 K and 1 atmosphere

$$C (\text{mg/m}^3) = C (\text{ppm}) \times (MW/22.4)$$

$$C (\text{ppm}) = C (\text{mg/m}^3) \times (22.4/MW)$$

where:

C = concentration

MW = molecular weight

22.4 = the volume of one litre of air at 1 atmosphere and 273 K

Volatile organic compounds

Calculation of VOC as n-propane equivalent on a mass basis

VOC as n-propane equivalent is the sum of the concentrations of each individual VOC species which are measured by a GC, or a similar method, and corrected to VOC as n-propane equivalent.

If speciated gaseous non-methane organics (SGNMO) have been measured using TM-34 (USEPA (2000) Method 18), use the following procedure to convert the concentration of each individual VOC species to VOC as n-propane equivalent:

$$C_{VOC} = \sum_{i=1}^N (C_i \div MW_i \times 44)$$

where:

C_{VOC} = the calculated concentration of VOC as n-propane equivalent in mg/m^3 (dry, 273 K, 101.3 kPa)

C_i = the measured concentration of each individual VOC species in mg/m^3 (dry, 273 K, 101.3 kPa)

MW_i = the molecular weight of each individual VOC species in g/mol

44 = the molecular weight of n-propane in g/mol

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Calculation of TOC equivalent on a mass basis

Total organic carbon (TOC) equivalent is the sum of the concentrations of each individual VOC species which are measured by a GC, or a similar method, and corrected to TOC equivalent.

If speciated gaseous non-methane organics (SGNMO) have been measured using TM-34 (USEPA (2000) Method 18), use the following procedure to convert the concentration of each individual VOC species to TOC equivalent:

$$C_{TOC} = \sum_{i=1}^N ((C_i \div MW_i) \times (K_i \times 12))$$

where:

C_{TOC} = the calculated concentration of TOC in mg/m^3 (dry, 273 K, 101.3 kPa)

C_i = the measured concentration of each individual VOC species in mg/m^3 (dry, 273 K, 101.3 kPa)

MW_i = the molecular weight of each individual VOC species in g/mol

K_i = the carbon correction factor (number of carbons in the molecule) for each species

Conversion of total VOC as n-propane equivalent to TOC equivalent on a volume basis

TOC equivalent is a measure of the amount of gaseous or vapour phase organic carbon which is measured by a FID, or similar method, and expressed as TOC equivalent.

If total gaseous non-methane organics (TGNMO) have been measured using TM-34 (USEPA (2000) Method 25 or 25A or 25B or 25C or 25D or 25E), use the following procedure to convert VOC as n-propane equivalent (or other calibrating gas) to total organic carbon (TOC) equivalent and vice versa:

$$C_{TOC} = K \times C_{VOC}$$

where:

C_{TOC} = the calculated concentration of TOC as carbon equivalent in ppmv

C_{VOC} = the measured concentration of VOC as n-propane equivalent (or other calibrating gas) in ppmv

K = the carbon equivalent correction factor (This is the number of carbons in the molecule and has a value of 3 if n-propane is used as the calibrating gas. An appropriate carbon equivalent correction factor should be selected if a calibrating gas other than n-propane is used.)

Conversion of TOC equivalent on a volume basis to TOC equivalent on a mass basis

$$C_{TOC} (\text{mg}/\text{m}^3) = C_{TOC} (\text{ppm}) \times (12/22.4)$$

where:

C_{TOC} = the concentration of TOC as total organic carbon equivalent

12 = the molecular weight of carbon

22.4 = the volume of one litre of air at 1 atmosphere and 273 K

Appendix II: Test method 19 – Determination of total mass of unburnt organic vapours from vapour disposal units

Sampling

Draw the exhaust gases through a 316 stainless steel probe to a sample line of PTFE or 316 stainless steel held at a temperature of at least 105°C.

Pass the exhaust gases to a device capable of reducing the moisture content of the gases to a dew point of less than 3°C. Filter the sample gases to remove entrained particles.

Analysis

Pass the conditioned sample gases to the following two analysers:

Hydrocarbon analyser (flame ionisation detector type)

Set the analyser to zero with air that has a hydrocarbon concentration of less than 10 ppm by volume of propane. Calibrate it with a gas of known propane concentration to give a deflection of between 20% and 90% of full scale on the range being used.

The average of the indicated concentration of hydrocarbons in the conditioned sample gases must lie between 30% and 90% of full-scale deflection of the analyser. The combined effects of carbon dioxide and carbon monoxide in the gases must not affect the reading by more than 2% of full-scale deflection. The deviation from linear response of the analyser must not exceed 2.5% of full-scale deflection.

Carbon dioxide analyser (non-dispersive infrared type)

Set the analyser to zero with nitrogen that has a carbon dioxide concentration of less than 0.05% by volume. Calibrate it with a gas of known carbon dioxide concentration to give a deflection of between 20% and 90% of full scale on the range being used.

The analyser must have a full-scale range for carbon dioxide concentration lying between 0% and 14% and 0% and 20% by volume. The deviation from linear response of the analyser must not exceed 2.5% of full-scale deflection.

Calculation of mass of unburnt organic vapours

The mass of unburnt organic vapours in each cubic metre of the exhaust gases is equal to:

$$C \div (42.3 \times L) \text{ grams}$$

where:

C = the average concentration of hydrocarbons measured as equivalent propane in ppm over the test period

42.3 = a conversion factor

L = the average concentration of carbon dioxide content expressed as a percentage of sample gases

Appendix III: Test method 20 – Determination of total mass of unrecovered organic vapours from vapour recovery units

Sampling

Draw the exhaust gases through a sample line of PTFE or 316 stainless steel construction. Pass them to a hydrocarbon analyser (flame ionisation detector type).

Analysis

Set the analyser to zero with air that has a hydrocarbon concentration of less than 10 ppm by volume of propane. Calibrate the analyser with a gas of known propane concentration to give a deflection of between 20% and 90% of full scale on the range being used.

The average of the indicated concentration of hydrocarbons in the exhaust gases must lie between 30% and 90% of full-scale deflection of the analyser. The combined effects of carbon dioxide and carbon monoxide in the gases must not affect the reading by more than 2% of full-scale deflection. The deviation from linear response of the analyser must not exceed 2.5% of full-scale deflection.

Calculation of mass of unrecovered organic vapours

The mass of unrecovered organic vapours emitted for each litre of organic liquid is:

$$(318 \times C \times A \times M \times P \times V) \div (L \times T) \text{ milligrams}$$

where:

C = the average concentration of hydrocarbons expressed as equivalent propane in ppm over the test period

A = the cross-sectional area of the exhaust duct at the plane where the measurements are made in m²

M = the total time for organic liquid to pass into the tank or out of the industrial plant in minutes

P = the atmospheric pressure in kPa

V = the average exhaust gas velocity in metres per second

L = the volume of organic liquid passing into the tank or out of the industrial plant in litres

T = the average exhaust gas temperature in kelvins (273 + temperature in °C)

318 = a conversion factor

Appendix IV: Test method 21 – Calculation of vapour pressure

A volatile organic liquid for which the Reid vapour pressure may be ascertained shall be deemed to have a vapour pressure exceeding 75 kilopascals if the maximum bulk storage temperature of the liquid is greater than the temperature specified in Column 2 of the table below corresponding to the Reid vapour pressure of the liquid specified in Column 1.

Where the Reid vapour pressure of the liquid lies between two adjacent values specified in Column 1 of the table, the corresponding temperature may be calculated as though a linear relationship existed between the Reid vapour pressure and the temperature at and between those two values.

Where the Reid vapour pressure of the liquid lies outside the values specified in Column 1 of the table or cannot be determined, the vapour pressure of the liquid shall be calculated by such methods as the EPA may determine.

| Column 1 Reid vapour pressure (kPa) | Column 2 Temperature (°C) |
|--|------------------------------|
| 50 | 49 |
| 60 | 43 |
| 70 | 38 |
| 80 | 33 |
| 90 | 29 |
| 100 | 26 |

Appendix V: Test method 26 – Exhaust and evaporative emissions from spark-ignition motor vehicles

Testing must be carried out in accordance with the test procedures appropriate for the category of vehicle being tested and its date of manufacture specified in Australian Design Rule (ADR) 37/00 or ADR 37/01. Special conditions apply, as detailed below.

A reference here to components applies only to those components related to the emission performance of the motor vehicle being tested.

1. Compliance testing of new petrol-powered light vehicles

- Test the vehicle in the condition in which it is presented for testing (no tuning or special stabilisation distance run-in) unless the manufacturer or its agent requests special preparations to be made before testing.
- In evaporative emissions testing of a vehicle less than 56 days after it was manufactured, the Clean Air (Motor Vehicles and Motor Vehicle Fuels) Regulation 1997 allows for 1-3 grams of hydrocarbon emissions emanating from sources other than the fuel system of the vehicle.

2. Compliance testing of in-service petrol-powered light vehicles up to five years old or with 80,000 kilometres accumulated

- The engine of the vehicle must be tuned to the manufacturer's specifications.
- Where components originally fitted to the vehicle have been removed, disabled or tampered with, they must be replaced or repaired before testing.
- Components that are faulty or broken through normal use of the vehicle must not be replaced or repaired before testing.
- Components whose performance has deteriorated through normal use must not be replaced before testing.

3. Compliance testing of in-service dual-fuel (petrol/LPG) light vehicles up to five years old or with 80,000 kilometres accumulated, operating on liquefied petroleum gas (LPG)

- All conditions in 2 (above) apply.
- Do not conduct the evaporative emission testing procedure.
- Do not apply any heat source to the vehicle's LPG storage container(s) during testing.
- Use LPG consisting of 50% butane and 50% propane. If this is not available, use commercially available LPG.

4. Compliance testing of in-service dual-fuel (petrol/LPG) light vehicles up to five years old or with 80,000 kilometres accumulated, operating on petrol

- All conditions in 2 (above) apply.
- Do not apply any heat source to the vehicle's LPG storage container(s) during testing.

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5. Compliance testing of in-service dual-fuel (petrol/CNG) light vehicles up to five years old or with 80,000 kilometres accumulated, operating on compressed natural gas (CNG)

- All conditions in 2 (above) apply.
- Do not conduct the evaporative emission testing procedure.
- Do not apply any heat source to the vehicle's CNG storage container(s) during testing.
- Use commercially available CNG for this test.

6. Compliance testing of in-service dual-fuel (petrol/CNG) light vehicles up to five years old or with 80,000 kilometres accumulated, operating on petrol

- All conditions in 2 (above) apply.
- Do not apply any heat source to the vehicle's CNG storage container(s) during testing.

Appendix VI: Test method 27 – Lead concentration in leaded and unleaded petrol

The lead in all petrol must be determined with this test method. The method was developed by the EPA from the standard test methods AS 1876-1990 *Petrol (Gasoline) for Motor Vehicles* and ASTM D3237-97 *Standard Test Method for Lead in Gasoline by Atomic Absorption Spectrometry*.

Applicability

This method is independent of the lead alkyl type and should be used to sample from bowsers, tanks, delivery tanks, tank vehicles, motor vehicles and pipelines.

Principle

The petrol sample is diluted with methyl isobutyl ketone, and the alkyl lead compounds are stabilised by reaction with iodine and a quaternary ammonium salt. The lead content of the sample is determined by atomic absorption flame spectrophotometry at 283 nm. Standards prepared from reagent-grade lead chloride are used for calibration.

Range

Lead concentrations in the range 0.005 to 1 g/L can be determined. Higher lead concentrations require dilution with iso-octane before analysis.

Sampling and storage

Containers for samples

Sampling containers must be metal cans with welded side seams and a minimum capacity of 250 mL. Each container must have an opening at the top 30-50 mm in diameter. The top must be sealed with a vapour-tight screw cap.

Number of samples

Take two samples of the petrol to be tested and analyse the lead content of each. If requested, leave a third sealed sample with the owner or the person in charge.

Sampling from a bowser

Pour the petrol directly from the nozzle of the bowser hose into the top opening of the sample container. Fill the container to near capacity.

Sampling from other sources

Take a representative sample. Pour it into a sample container for transport.

Storage

Store samples at 0° to 8°C. Bring them to room temperature before analysis.

Cleaning procedures

Rinse the sampling containers with acetone (propanone) or iso-octane. Dry them in a drying cabinet at 40°C or higher.

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Reagents

- MIBK: methyl isobutyl ketone (4-methyl-2-pentanone) (AR grade).
- Iodine solution: Dissolve 3.0 g AR grade iodine in AR grade toluene and dilute to 100 mL with the toluene. Store in a brown glass bottle.
- Aliquat 336: Tricapryl methyl ammonium chloride.
- 10% Aliquat 336/MIBK solution: Dilute 100 mL of Aliquat 336 to 1 L with MIBK.
- 1% Aliquat 336/MIBK Solution: Dilute 10 mL of Aliquat 336 to 1 L with MIBK.
- Lead chloride: At least 99% pure.
- Stock lead solution (2000 mg/L): Dry lead chloride at $105^{\circ} \pm 5^{\circ}\text{C}$ for 3 hours. Dissolve 0.6711 g in about 200 mL of 10% Aliquat 336/MIBK solution. Dilute to the mark in 250 mL volumetric flask with 10% Aliquat 336/MIBK solution. Mix well and store in a brown glass bottle.
- Intermediate stock lead solution (100 mg/L): Transfer accurately by pipette 5 mL of stock lead solution to a 100 mL volumetric flask. Dilute to the mark with 10% Aliquat 336/MIBK solution. Mix well and store in a brown glass bottle.
- Iso-octane: 2,2,4-trimethylpentane (AR grade).
- Nitric acid (1+1): Mix equal volumes of concentrated AR grade nitric acid and distilled water.
- Acetone (AR grade).

Maximum storage periods for reagents:

- Iodine solution – 30 days
- 10% Aliquat 336/MIBK – 30 days
- 1% Aliquat 336/MIBK – 30 days
- Stock lead solution – 30 days
- Standard lead solution – 1 day

Grades of reagents other than those indicated may be used with two provisos:

- The reagent is of high enough purity to permit its use without lessening the accuracy of the determination.
- The same source of reagent is used for all standards and blanks.

Analysis**General**

Glassware must be de-lead by rinsing with dilute nitric acid (1+1) and then rinsed with distilled water. Wash the glassware with acetone and dry it at $50^{\circ} \pm 5^{\circ}\text{C}$.

Preparation of working standards (2, 5, 10, 20 mg/L)

Transfer accurately by pipette 1.0, 2.5, 5.0 and 10.0 mL of the intermediate stock lead solution (100 mg/L) to four 50 mL volumetric flasks. Adjust the volume of each to 10 mL by adding 1% Aliquat/MIBK solution and add 10 mL of iso-octane. Add 0.1 mL of iodine solution, mix well and allow to react for at least 1 minute. Dilute to volume with MIBK and mix.

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Preparation of the blank

To a 50 mL volumetric flask add 30 mL of MIBK then 10 mL of iso-octane. Add 0.1 mL of iodine solution, mix well and allow to react for at least 1 minute. Add 5 mL of 1% Aliquat/MIBK solution and mix. Dilute to volume with MIBK and mix.

Preparation of sample

- For petrol with a lead concentration of < 0.1 g/L: To a 50 mL volumetric flask containing 30 mL of MIBK and 10 mL of petrol sample, add 0.1 mL of iodine solution. Mix well and allow to react for at least 1 minute. Add 5 mL of 1% Aliquat/MIBK solution. Dilute to volume with MIBK and mix.
- For petrol with a lead concentration of 0.1–1 g/L: To a 50 mL volumetric flask add 30 mL of MIBK. Add 1–5 mL of petrol sample and enough iso-octane to yield a final sample volume of 10 mL. Add 0.1 mL of iodine solution, mix well and allow to react for at least 1 minute. Add 5 mL of 1% Aliquat/MIBK solution. Dilute to volume with MIBK and mix.
- For petrol with a lead concentration of > 1 g/L, dilute with iso-octane before analysis.

Preparation of the atomic absorption spectrophotometer

Optimise the instrument for lead at 283.3 nm. Using the blank, adjust the gas mixture (acetylene/air) and aspiration rate to obtain an oxidising lean, blue flame. Aspirate the 20 mg/L lead working standard and adjust the instrument to achieve maximum response.

Standardisation and analysis

Aspirate the reagent blank and adjust the instrument to zero. Measure the absorbances of the 2, 5, 10 and 20 mg/L lead working standards. Aspirate the samples and record the absorbance values. Aspirate the blank between each sample measurement.

For instruments without a direct concentration readout, prepare a calibration curve by plotting the absorbance of the working standards against their concentrations (mg/L) on linear graph paper.

Calculations

Read the lead concentration in g/L directly from the instrument readout or calculate it by referring to the appropriate calibration curve:

$$\text{Lead concentration in petrol sample (g/L)} = (C \times V_1) \div (V_2 \times 1000)$$

where:

C = lead concentration (mg/L) of sample (as read from graph or instrument readout)

V₁ = final volume (50 mL)

V₂ = volume of sample petrol (mL)

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Appendix VII: Test method 31 – Observation procedure for excessive air impurities: visible emissions

When an observer is determining if a vehicle is being used in breach of the clause limiting visible emissions, the following principles apply:

- The observer must be satisfied that the vehicle generating the visible emissions is correctly identified.
- The observer must be satisfied that the emissions are visible not just because of heat or the condensation of water vapour.
- The emissions must be continuously visible for more than 10 seconds.

The following details of the observation must be recorded:

- Length of time in seconds that the visible emissions were observed.
- Registration number of the motor vehicle under observation.
- Type of motor vehicle under observation.
- Colour and darkness, in the opinion of the observer, of the air impurities emitted.
- Location, date and approximate time of day that the observation was made.

Appendix VIII: Test method 38 – Combination of air impurities from two or more sources

A combined source is a discharge point that combines discharge streams from two or more emission units, prior to discharge to the atmosphere. The procedure for calculating the alternative standard of concentration for a combined source is detailed in the following equation.

$$C_T = \frac{C_1 \cdot q_1 + C_2 \cdot q_2 + \dots + C_N \cdot q_N}{q_1 + q_2 + \dots + q_N}$$

where:

C_T = the alternative standard of concentration for the combined source

C_1, C_2, C_N = the standards of concentration that are applicable to each of N emission units

q_1, q_2, q_N = the volumetric flow rates of each of N emission units

Appendix IX: Other approved method 9 – ‘Coarse’ particulates

To determine ‘coarse’ particulates:

- determine solid particles (total) using TM-15
- **simultaneously** determine ‘fine’ particulates (PM₁₀) using OM-5, then
- subtract the result of OM-5 (‘fine’ particulates (PM₁₀)) from the result of TM-15 (solid particles (total)) to determine ‘coarse’ particulates.

Sampling and analysis for solid particles (total) and ‘fine’ particulates (PM₁₀) must be carried out simultaneously using TM-15 and OM-5 respectively, to ensure the influence of process variations do not affect the results.

Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales

Appendix X: Test method sources

Australian Standard test methods

Available for purchase from:

Standards Australia
1 The Crescent
Homebush NSW 2140
(PO Box 1055, Strathfield NSW 2135)
Phone: 1300 65 46 46
Fax: 1300 65 49 49
Email: sales@standards.com.au
Website: www.standards.com.au

American Public Health Association test methods

Standard Methods for the Examination of Water and Wastewater, 20th Edition is available for purchase from:

Australian Water Association
PO Box 388
Artarmon NSW 1570
Phone: (02) 9413 1288
Fax: (02) 9413 1047
Email: bookshop@awa.asn.au
Website: www.awa.asn.au

American Society for Testing and Materials test methods

Available from Standards Australia (see above) or direct from:

American Society for Testing and Materials
100 Barr Harbor Drive
West Conshohocken PA 19428-2959, USA
Phone: 0011 1 610 832 9500
Fax: 0015 1 610 832 9500
Website: www.astm.org/index.html#

United States Environmental Protection Agency test methods

Available from:

USEPA
National Service Center for Environmental Publications
PO Box 42419
Cincinnati OH 45242, USA
Phone: 0011 1 513 489 8190
Fax: 0015 1 513 489 8695
Website: www.epa.gov/ttn/emc/ or www.epa.gov/ (for on-line ordering)
USEPA Method 0061: www.epa.gov/epaoswer/hazwaste/test/0061.pdf
SW-846 series: www.epa.gov/epaoswer/hazwaste/test/main.htm

Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales

California Environmental Protection Agency Air Resources Board

Available from:

Office of Communications
2020 L Street
Sacramento CA 95814, USA
Phone: 0011 1 916 322 2990
Fax: 0015 1 916 445 5025
Website: www.arb.ca.gov/testmeth/vol3/vol3.htm

Australian Design Rules test methods

The Federal Office of Road Safety publishes Australian Design Rules for motor vehicles. ADR 37/00 or 37/01 Emission Control for Light Vehicles is available from:

Federal Office of Road Safety
15 Mort Street
Canberra ACT 2600
(PO Box 594, Canberra ACT 2601)
Phone: (02) 6274 7111
Fax: (02) 6274 7922
Website: www.atsb.gov.au/fors/contact.htm

International Standard Organisation test methods

The International Standard Organisation test methods are available from:

International Organisation for Standardisation
Case Postale 56
CH-1211 Geneva 20
Switzerland

ISO catalogue information is available at www.iso.ch or from Standards Australia as detailed above.

Environment Canada test methods

The Environment Canada test methods are available from:

Environment Protection Publications
Technology Development Branch
Conservation and Protection
Environment Canada
Ontario K1A 0H3
Email: epspubs@ec.gc.ca
Website: www.ec.gc.ca/publications.cfm



SAFETY ASPECTS

IN THE DESIGN OF BULK SOLIDS CONTAINERS INCLUDING SILOS, FIELD BINS AND CHASER BINS

CODE OF PRACTICE - 2005

Disclaimer

This publication contains information regarding occupational health and safety, injury management or workers compensation. It includes some of your obligations under the various workers compensation and occupational health and safety legislation that WorkCover administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

This publication may refer to WorkCover NSW administered legislation that has been amended or repealed. When reading this publication you should always refer to the latest laws. Information on the latest laws can be checked at www.legislation.nsw.gov.au or contact (02) 9238 0950 or 1800 463 955 (NSW country only).

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WHAT IS AN APPROVED INDUSTRY CODE OF PRACTICE?

An approved industry code of practice is a practical guide to employers and others who have duties under the *Occupational Health and Safety Act 2000* (the OHS Act) and the *Occupational Health and Safety Regulation* (OHS Regulation) with respect to occupational health, safety and welfare.

An industry code of practice is approved by the Minister administering the OHS Act. It comes into force on the day specified in the code or, if no day is specified, on the day it is published in the NSW Government Gazette. An approved industry code of practice may be amended from time to time (or it may be revoked) by publication in the Gazette.

An approved industry code of practice should be observed unless an alternative course of action that achieves the same or a better level of health, safety and welfare at work is being followed.

An approved industry code of practice is intended to be used in conjunction with the requirements of the OHS Act and the OHS Regulation but does not have the same legal force. An approved industry code of practice is advisory rather than mandatory. However, in legal proceedings under the OHS Act or OHS Regulation, failure to observe a relevant approved industry code of practice is admissible in evidence concerning an offence under the OHS Act or OHS Regulation.

A WorkCover Authority inspector can draw attention to an approved industry code of practice in an improvement or prohibition notice as a way of indicating the measures that could be taken to remedy an alleged contravention or non-compliance with the OHS Act or OHS regulation. Failure to comply with an improvement or prohibition notice without reasonable excuse is an offence.

In summary, an approved industry **CODE OF PRACTICE:**

- ✓ gives practical guidance on how health, safety and welfare at work can be achieved
- ✓ should be observed unless an alternative course of action that achieves the same or a better level of health, safety and welfare in the workplace is being followed
- ✓ can be referred to in support of the preventive enforcement provisions of the OHS Act or OHS Regulation
- ✓ can be used as evidence to support a prosecution for failing to comply with or contravening the OHS Act or OHS Regulation.

PREFACE

This Code of practice provides practical guidance for designers, manufacturers, importers and suppliers on safety aspects of the design of all types of bulk solids storage containers above four tonne or four cubic metre capacity.

Bulk containers, such as hoppers, silos, field bins and chaser bins, and ancillary bulk handling equipment, are important to operations on farms and in other industries. But they can also be the source of many hazards. Examples are deaths caused by falls, asphyxiation, fires and explosions. Experience has shown that risks are associated with structural collapse, lack of fall protection, entry into the container, electrical hazards, entrapment in augers and the dangerous nature of stored substances. An important principle of the occupational health and safety legislation is that such risks must be eliminated or controlled, so that such plant is safe when supplied to users.

This code of practice outlines typical hazards associated with bulk containers and their ancillary equipment, and describes means of eliminating or controlling the risks at the design stage, helping manufacturers, importers and suppliers provide a safer product.

This code of practice will help designers, manufacturers, importers and suppliers comply with their obligations under the *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001*. The 1991 code of practice applying to on-farm silos has been revoked, since it has become outdated as a result of the 2001 Regulation. Designers will also need to have regard to Australian Standards that have been adopted as codes of practice, relating to the design of access (eg stairs and ladders), conveyors and fall arrest systems. Australian Standards relating to hazardous areas for dusts and flammable atmospheres will also need to be taken into account where relevant to the contents to be stored.

This code of practice applies a risk management approach that provides flexibility to take into account the varying needs for containers of different size, construction and contents. For example, many on-farm silos are smaller, made of steel and filled by augers, while the concrete silos used at grain terminals are larger, may have several work levels, stairways and bucket conveyors. The nature of the substance intended to be stored will indicate if there are fire and explosion hazards that need to be controlled. The risks relevant to the type of container to be produced must be eliminated or controlled. Information on safe use, that is applying the intended control measures, must be provided to users, and this code of practice provides advice on the contents of the manual for operators.

This code does not apply to coal storage or containers of liquids, nor to containers used primarily for transport. It does not cover safety in the actual process of manufacture, construction or installation of containers. Advice relating to the storage of dangerous goods of class 4.2 (combustible solids) such as 'seed cake' and meal from seed oil extraction is specifically included.

Check the *Code of practice for the safe use of bulk solids containers and flatbed storage including silos, field bins and chaser bins* for advice on location and operations.

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CHAPTER 1 – Establishment

1.1 Title

This is the *Code of practice: safety aspects in the design of bulk solids containers including silos, field bins and chaser bins*.

1.2 Purpose

This Code of practice provides practical guidance on the design of bulk solids containers, such as silos, field bins and chaser bins, and ancillary plant. This will assist designers, importers, manufacturers and suppliers provide bulk containers that are safe and without risk to health when properly used, and provide relevant safety information.

1.3 Scope

1.3.1 Matters included

This Code of practice applies to designers, manufacturers, importers and suppliers, for the safe structural and operational design of bulk containers and ancillary plant, intended for use at work in NSW (except at mines) for the storage and handling of solid substances, such as industrial materials or products, crops, forage, stock feed or waste.

This code applies only to containers with a capacity exceeding four tonne or four cubic metre.

Silos, field bins and chaser bins are examples of bulk containers.

1.3.2 Exclusions

This code does not cover the following:

- health and safety during the process of manufacture, construction, installation of a bulk container, or making an electrical connection
- requirements for bulk containers used primarily for transport on public roads, or by rail, air or sea, nor field or chaser bins when towed on public roads
- bulk containers for coal.

While not included in the scope of this code, some aspects may be relevant to smaller containers, or to other forms of storage such as flatbed storage, or the storage of liquids. When carrying out a risk assessment when planning such storage, advice in the various parts of this code should be applied where the risk assessment of each case indicates it is relevant.

Advice on location and operation of bulk containers, such as silos and bins, is provided in the *Code of practice for the safe use of bulk solids containers and flatbed storage including silos, field bins and chaser bins*.

1.3.3 Additional relevant standards for dangerous goods

Additional advice about the storage of dangerous goods (other than class 4.2) is also provided in Australian Standards specific to the class and type of the dangerous goods.

1.4 Authority

This is an industry code of practice, approved by the Minister for Commerce under section 43 of the *Occupational Health and Safety Act 2000*, on the recommendation of the WorkCover Authority.

1.5 Commencement

This Code of practice commences on 26 August 2005.

Note: The commencement dates of the *Occupational Health and Safety Regulation 2001* (OHS Regulation) are relevant. This Code of practice provides advice on implementing the OHS Regulation, and in particular the new plant provisions. Compliance with the OHS Regulation is necessary for:

- designers (or importers) – all plant designed after 1 September 2001
- manufacturers (or importers) – all plant manufactured after 1 September 2002
- suppliers (eg supply by sale, hire or lease) – all plant supplied after 1 September 2002.

1.6 Repeal (revocation) of 1991 Code of practice

This Code of practice replaces the *Code of practice: Safety aspects in the design, manufacture and installation of on-farm silos and field bins*, published in the *NSW Government Gazette* on 2 August 1991 (that commenced on 2 August 1991), which is hereby revoked as provided by section 45 of the *Occupational Health and Safety Act 2000*.

1.7 Definitions

Definitions are taken from the OHS Act or the OHS Regulation, or from other relevant legislation or Australian Standards. Where developed specifically for this code of practice, this is indicated in a note.

The following terms are used in this code of practice with these meanings:

auger means a screw type conveyor.

bulk means more than four tonnes (net), or more than four cubic metres, of substance not in individual packages.

Note: This definition has been developed for this specific code of practice.

chaser bin means a mobile bulk container that has all the following features:

- usually towed by a hauling vehicle when being loaded
- primarily used for receiving mechanically harvested crops
- normally unloaded by mechanically tilted means or by an auger.

Note: This definition has been developed for this specific code of practice.

confined space, in relation to a place of work, means an enclosed or partially enclosed space that:

- is not intended or designed primarily as a place of work, and
- is at atmospheric pressure while persons are in it, and
- may have an atmosphere with potentially harmful contaminants, an unsafe level of oxygen or stored substances that may cause engulfment, and
- may (but need not) have restricted means of entry and exit.

Examples of confined spaces are as follows:

- storage tanks, tank cars, process vessels, boilers, pressure vessels, silos and other tank-like compartments,
- open-topped spaces such as pits or degreasers,
- pipes, sewers, shafts, ducts and similar structures,
- shipboard spaces entered through a small hatchway or access point, cargo tanks, cellular double bottom tanks, duct keels, ballast and oil tanks and void spaces (but not including cargo holds).

Note: The above criteria should be applied to the design to determine if it is a confined space.

container means a container intended for the storage and handling of bulk solid substances (such as industrial materials or products, crops, forage, stock feed or waste), usually fitted with a discharge outlet, and includes a silo, field bin or a chaser bin, but does not include flatbed storage.

Note: This definition has been developed for this specific code of practice.

conveyor means an apparatus or equipment operated by any power other than manual power, by which loads are raised, lowered, or transported, or capable of being raised, lowered, or transported or continuously driven by:

- an endless belt, rope or chain or other similar means
- buckets, trays or other containers or fittings moved by an endless belt, rope, chain or other similar means
- a rotating screw
- rollers

and includes the related supporting structure and auxiliary equipment used in connection with the conveyor.

Note: This includes an auger, and a vibration or walking beam.

dangerous goods has the same meaning as in the *Australian Code for Transport of Dangerous Goods by Road and Rail* approved by the Australian Transport Council and published by the Australian Government from time to time.

Note: Relevant examples of dangerous goods are included in section 7 of this code.

designer means a designer of plant and includes an employer or self-employed person who designs plant for his, her or its own use at work.

Note: A person importing plant from outside NSW (either from another state, territory or from overseas) must ensure the responsibilities of a designer and manufacturer are met.

field bin means a temporarily located bulk container that has all the following features:

- intended for the storage of substance such as crops and stock feed
- equipped with a discharge outlet
- capable of being emptied by gravity, mechanical or pneumatic means
- equipped with fixed, retractable or removable wheels for the purpose of towing it from one location to another.

Note: Field bins may also be called relocatable, moveable or portable silos. This definition has been developed for this specific code of practice.

guard means a device that prevents or reduces access to a danger point or area.

hatch means a cover or a door over an opening in a bulk container.

hazard means anything (including work practices or procedures) that has the potential to harm the health or safety of a person.

individual packages – see package.

manufacture plant includes assemble, install or erect plant.

manufacturer of plant includes an employer or self-employed person who manufactures plant for his, her or its own use at work.

Notes: Importers must ensure that the duties of designers and manufacturers are met. Import includes import from other states or territories and import from overseas.

material specification means, in relation to the material a container is made from, the mechanical and chemical composition of the material as defined as a particular grade by an Australian or international Standard.

must means a mandatory requirement (a requirement of an Act or Regulation).

OHS Act means the *Occupational Health and Safety Act 2000*.

OHS Regulation means the *Occupational Health and Safety Regulation 2001*.

Note: This Regulation is reviewed every five years with a change of date in the title.

package means any form of package or container of less than 4 tonnes and less than 4 cubic metres, and includes bags, cartons and drums.

Note: This definition has been developed for this specific code of practice.

plant includes any machinery, equipment or appliance.

Note: Examples of plant mentioned in this code include: silos, field bins, chaser bins, augers, bucket elevators, electrical devices, belt conveyors and aerating and drying equipment.

reasonably practicable – see advice in appendix 2, section A2.4.

risk means the likelihood of an injury or illness occurring and the likely severity of the injury or illness that may occur.

should means a recommendation.

Note: Such recommendations may be used evidence in any proceedings for an offence against the OHS Act or OHS Regulation as provided by section 46 of the OHS Act.

silo means a bulk container that has all the following features:

- located in a fixed position
- equipped with discharge outlets
- capable of being emptied by gravity, mechanical or pneumatic means.

Note: Relocatable, moveable or portable silos are also referred to as field bins for the purposes of this code of practice. This definition has been developed for this specific code of practice.

CHAPTER 2 - Implementing this code of practice; applying risk management principles

An important principle of the occupational health and safety legislation is that all risks must be eliminated or controlled, so that plant is safe when supplied to users and properly used. This chapter focuses on applying risk management principles to the design of bulk containers. This will assist designers, manufacturers, suppliers and importers of plant comply with the duties placed upon them by occupational, health and safety (OHS) laws. A summary of how the law applies to various parties is provided in Appendix 2.

2.1 Risks

Experience has shown that significant risks when using bulk containers include the following:

- entrapment or engulfment by material
- confined spaces entry (eg asphyxiation)
- falls from heights (eg from roof tops and ladders)
- fires and explosions from the nature of the stored material
- structural collapse, and stability of foundations
- equipment and machinery, such as augers or conveyors used with the container (eg lack of suitable guarding).

These risks are addressed in this code of practice. However, while the above are important, other risks may need to be addressed in each design, such as ergonomics and the health risks of dusts.

2.2 Relevant factors to consider

2.2.1 Differences in designs

This code applies to a variety of different bulk containers intended for different uses. When interpreting this code, and determining how to apply the recommended control measures to your design, a risk management approach should be applied in a manner that takes into account the variations in designs, different types of storage method and the nature of the intended use (including contents).

2.2.2 Key factors in risk assessment

Factors that may be relevant to the risk assessment include the following:

- size of the container, and the nature of access by persons to heights, to storage piles and to the interior of containers
- construction materials and strengths
- the nature of the material intended to be stored for fire and explosion risks
- the method of loading and unloading, including the use of ancillary plant such as conveyors and augers
- guarding of ancillary machinery
- electrical safety.

This list is not exhaustive and all possible risks need to be considered, such as manual handling risks, the health hazards from dusts that may be released, and other hazardous substances.

The conclusions from the risk assessment process provide a basis for determining control measures that are suitable and reasonably practicable for each type and design of bulk container and ancillary plant. The control measures chosen may need to be described in the operator's manual (see section 10.3), to ensure that they are applied properly.

2.2.3. Flatbed storage and small bins - guidance

While containers smaller than four cubic metres and flatbed storage are not specifically addressed, some of the risks listed above might apply in a particular circumstance. Following a risk assessment of such situations, the advice in this code should be used as guidance where relevant. For example, a small container in an elevated position may have access and fall risks. In flat-bed storage, this may include risk factors relating to wall strength, self-heating leading to fires, emergency procedures such as fire fighting, access and egress and the use of ancillary plant such as machinery.

2.3 Applying the hierarchy of control

The risks relevant to the type and design of the container to be supplied must be eliminated or controlled at the design stage. To do this, the 'hierarchy of control' must be applied (see clause 5 of the OHS Regulation), having regard to what is 'reasonably practicable'. This term is not defined in NSW legislation, and advice on interpreting the meaning of 'reasonably practicable' is provided in Appendix 2 (see section A2.4).

2.3.1 Eliminating the risk

The first consideration is to keep people from being exposed to a hazard in the first place. This is called eliminating the risk. For example, eliminating the need for workers to access elevated work areas can eliminate some of the risks associated with falls from heights.

Elimination of the risk gives the best level of safety, and must be adopted unless it is not reasonably practicable. If elimination is not reasonably practicable, then the hierarchy of controls shown in section 2.3.2 below must be considered.

2.3.2 Controlling the risk

The following hierarchy of control measures is listed in the order it must be applied. Work through the following sequence, starting with (a) which represents the highest level. Select from the highest level reasonably practicable to develop each control measure for each risk identified.

- (a) Substituting the system of work, substance or plant for something less hazardous (eg installing material level indicators that can be observed from ground level).
- (b) Isolating the hazard (eg restrict access to an area by the use of barriers or guard rails).
- (c) Introducing an engineering control (eg safety cages).
- (d) Administrative controls adopted as part of a safe system of work – examples are:
 - modifying the system of work (eg cleaning the silo from lower levels rather than from the top)
 - providing hazard warning signs, training advice and work instructions.

- (e) Personal protective equipment (PPE), such as fall arrest devices, eye, respiratory and hearing protection. The use of PPE, such as fall arrest systems, must be considered last and only where a residual risk remains, or other control measures are not reasonably practicable.

In some situations a combination of control measures may be needed.

2.3.3 Implementing this code of practice

The advice in this code should be considered in terms of applying the 'hierarchy of control' to each specific design, by focusing firstly on elimination, then isolation (such as guarding) and engineering controls, and finally on PPE.

In some cases there are specific requirements and the code references the relevant clause of the OHS Regulation to highlight these.

Advice on the control measures determined must be passed on to users (OHS Regulation, clauses 95 and 105). For example, where a fall arrest system is chosen, information about the application and use of this must be provided in the manufacturer's instructions (see section 10.3).

The provision of advice on operator training or induction, while essential, does not make an unsafe design safe to use. Regard must be had to the fact that operators may not at all times comply strictly with safety instructions. Designers need to take into account the potential for inadvertent misuse, deliberate misuse, operator inattention or carelessness. The OHS legislation also imposes obligations on the users of bulk containers, and it will help end users if containers are designed in a manner that assists safe use.

CHAPTER 3 - Structural design and safety risks

The risk of structural collapse of containers must be assessed and controlled. This chapter addresses key risk factors.

3.1 Loads

The container and its supporting structure should be designed to resist all relevant loads. The following loads should be taken into account:

- (a) Permanent loads, including: the self-weight of the container, support structure, access ladders and platforms, and ancillary mechanical plant and equipment.
- (b) The in-service loads, including the movement or displacement of material, such as the following:
 - gravity loads from stored material
 - initial loads on container walls
 - loads induced by flow of stored material
 - concentric and eccentric discharge or filling of the container
 - forces from conveyors and feeders reacting against the container
 - live loads on stairs, ladders, platforms and roofs
 - internal gas or air pressure, or suction, including pressure from pressurised delivery systems (including filtration systems)
 - impact caused by falling material (such as produce)
 - forces from any attached structures
 - loads associated with potential impact of vehicles, loaders or trains where these enter into the container area and could create a risk of collapse
 - loads resulting from persons falling, where the structure to which the anchorage point is fixed is part of the container. Advice on anchorage is provided in section 3 of AS/NZS 1891.4 - 2000 *Industrial fall arrest systems and devices – Part 4: Selection, use and maintenance* (which has the status of an approved industry code of practice in NSW).
- (c) Environmental loads including:
 - wind loads (for advice see Australian Standard AS 1170.2 - 2002 *Minimum design actions on structures* (known as the SAA loading code) – *Part 2 Wind actions*)
 - seismic loads (for advice see Australian Standard AS 1170.4 – 1993: *Minimum design loads on structures – Part 4 Earthquake loads*)
 - loads due to differential settlement of foundations
 - loads due to differential temperature
 - swelling of stored material.
- (d) Travelling loads for field bins and chaser bins resulting from:
 - acceleration and deceleration forces
 - loads resulting from the nature and slope of the grounds over which they are allowed to travel

- (e) Rescue loads, if entry to the container from the roof, or elevated side access, is permitted. This should include the following:
- the weight of at least two persons on the roof
 - the weight of the rescue equipment
 - the load required to lift the person being rescued
 - anchorage points and loads for the attachment of personnel fall arrest devices, lanyards and restraint lines (see section 4). Advice on anchorage is provided in section 3 of AS/NZS 1891.4 - 2000 *Industrial fall arrest systems and devices – Part 4: Selection, use and maintenance* (which has the status of an approved industry code of practice in NSW).
- (f) Loads on foundations, footings, or other supports to ensure stability (see section 3.7), and providing suitable construction or erection information to constructors, erectors or users to ensure the installation can support the loadings (see section 10.3).

Further advice for granular solids is provided in Australian Standard AS 3774 - 1996 *Loads on bulk solid containers*.

3.2 Design of structures

Advice on structures can be found in the following standards, as relevant to the type of material used:

| | |
|---------------|---|
| AS/NZS 1664.1 | <i>Aluminium structures - Allowable stress design</i> |
| AS/NZS 1664.2 | <i>Aluminium structures - Limit state design</i> |
| AS 3600 | <i>Concrete structures</i> |
| AS 3990 | <i>Mechanical equipment - Steelwork</i> |
| AS 4100 | <i>Steel structures</i> |

Structures may be designed using the *allowable stress* design method or the *limit state* design method.

3.3 Cladding, internal lining material and other internal components

Cladding or internal lining material should be durable, require minimal cleaning and not react with stored substances, or gases and chemicals generated or used (eg pesticides) inside the silo. It may need to be insect and vermin proof if the container is intended for the storage of crops or food products. Such proofing reduces the need for pesticide use. Components such as copper piping or copper electrical contacts can be corroded by grain fumigants.

3.4 Corrosion protection and mitigation

Steelwork should be protected against corrosion. Recommendations for corrosion protection may be found in Australian Standard AS/NZS 2312 *Guide to the protection of iron and steel against exterior atmospheric corrosion*.

Connection of dissimilar metals such as Aluminium and Steel may result in accelerated corrosion and so is not recommended.

The design should allow for an appropriate corrosion allowance (eg 10 per cent above the design wall thickness).

3.5 Accumulation of water and other substances

3.5.1 Corrosion prevention

Accumulation of water and other substances on the structural members can result in their corrosion leading to eventual structural collapse. The design should prevent, or if this is not practicable, minimise the water and material traps inside and outside the bulk container. To achieve this observe the following:

- position steel angles and channels with their legs pointing downward
- allow for sloping surfaces to drain water
- seal joints by continuous rather than intermittent welds
- overlap joints in a way that will avoid accumulation of water and material
- provide drain holes (eg cut the corner of gusset plates to allow drainage)
- seal joints with suitable compounds.

3.5.2 Prevention of dust and pests

Structures and plant should be designed to avoid accumulation of dusts or waste, inside or outside the container. For example, avoid ledges and other places dust could accumulate, such as by providing sloping surfaces.

This will reduce the risks of dust explosions. It will also reduce the need for pesticide use since pests are less likely to be attracted and nest in parts of the container or ancillary plant.

3.6 Stability

The stability of containers against overturning or being blown from a stationary position should be considered. In the case of relocatable containers, also consider the means to prevent rolling from a stationary position, such as being blown or rolling on sloping ground.

The designer should specify the maximum sloping ground on which a fully loaded container (eg a field or chaser bin) can be safely supported or moved. Such specification should allow for the type of ground and conditions.

Consider the worst loading combinations, including the following:

- when the container is empty and is subject to wind loads
- in the case of a field or chaser bin, when the bin is fully loaded and is supported on its maximum allowable sloping ground.

Provide means to maintain the stability of relocatable containers when travelling and when stationary, and adequate brakes for chaser and field bins including both stationary loads and loads when being moved.

Advice and information on foundations, footings, plinth, and for relocatable containers (such as field bins and chaser bins) the towing capacity required, must be provided in the specification plate and manual (see chapter 10).

3.7 Explosion relief

Explosion relief allowance may be needed, depending on the assessment of the nature of the contents (for example if there is a fire or explosion risk from the intended stored substance, see section 7). This could be in the form of panels, roof sections or doors that blow out under pressure. A form of restraint is needed to prevent such items creating a new hazard by being propelled from the container.

3.8 Pressure systems

Where pressure may accumulate in the container or ancillary plant (such as in a filtration system removing airborne dust) from systems such as pneumatic transfer, or fumigation of a sealed (or semi-sealed) silo; pressure relief such as venting or valves may be necessary to control both positive and negative (vacuum) pressure.

Pressure testing of sealed silos is usually necessary for correct operation and fumigation, and a suitable system should be provided.

CHAPTER 4 - Means of access by persons

4.1 Access by persons to parts of the container or work areas

4.1.1 Risks

Risks during access that need to be assessed are the potential for:

- falls from any height, such as from roofs, ladders or sloping interior floors of containers
- contact with power lines
- entrapment in substance such as flowing grain
- dangers of the confined space inside the container and other plant areas (eg. the boot pit of a silo)
- entrapment in ancillary plant (such as an auger).

4.1.2 Eliminating or controlling risks

Where possible, measures to eliminate or control risks should involve reducing the need for access and frequency of access.

Examine the methods of access and consider applying the following measures to the extent reasonably practicable:

- (a) Minimise the need to gain access to the roof by providing and using measures such as the following:
 - a system that conveys substance to the container that is accessible from ground level, such as through a filler pipe or a bucket elevator
 - a remote lever to open and close the roof filling hatch (top inlet cover), operated from ground level
 - sight gauges or weight indicators to show the storage level (visible from ground level)
 - ground level access hatches (eg to allow cleaning)
 - extension poles to clean the inside of the container.
- (b) Substitute a less hazardous means of access. For example, using an inclined ladder instead of a vertical ladder where access is necessary, if reasonably practicable.
- (c) Use fall protection such as guardrails and ladder safety cages, where reasonably practicable.
- (d) Use a safety harness and fall arrest equipment, in conjunction with structurally adequate anchorage points (see 5.3 below). This option should be considered only if all other means (b, c and d above) are not reasonably practicable.
- (e) Prevent unauthorised access to ladders by either:
 - blocking the base of the ladder safety cage with a lockable or fixed barrier
 - adding a lockable cover to the access ladder up to a height of two metres
 - folding up or sliding up the lower two metres of the ladder
 - using a detachable ladder up to a height of 2.5 metres. Such a ladder should be secured away from unauthorised people when not in use.
- (f) Where a ladder is used as a means of access, it should not be provided as a work platform (as the narrow rungs do not providing adequate support for prolonged use).

- (g) Provide warning signs about the hazards associated with access.
- (h) Prevent unauthorised access by suitable guarding (see sections 4.4 and 4.5 below).

For further advice, see the hierarchy of control options in section 1.5 and figures 1.1 and 1.2 of AS 1891.4 *Industrial fall arrest systems and devices – Part 4: Selection, use and maintenance*. This Standard has been adopted as an approved industry code of practice.

Even though the reasons for access have been reduced, access to hatches, openings, controls or other parts of the container may be necessary for the following purposes:

- maintenance, such as replacement of top inlet rubber seals and linkages
- operational and inspection functions, eg access to the inlet and discharge control levers, inspection doors, and loading or unloading areas, or for carrying out fumigation
- in an emergency, such as fire fighting or rescue.

Where there is a need for access, provide safe means of access and exit to all points. Frequency of access is a risk factor – for example, regular monthly inspections of the contents may be necessary.

At each point intended for access to inside the container or plant area (except ground level access), that has been identified as a confined space, provide attachment points for the use of lines, lanyards and safety harnesses for the purposes of fall arrest or emergency rescue, as relevant to the purpose.

At elevated points, attachment for fall arrest devices may be necessary. Advice on anchorage is provided in section 3 of AS/NZS 1891.4 - 2000 *Industrial fall arrest systems and devices – Part 4: Selection, use and maintenance* (an approved industry code of practice in NSW).

The following sections, 4.2 to 4.5, provide advice on the high-risk areas of heights, access structures, openings and internal access.

4.2 Means of access to heights

4.2.1 Performance criteria

The type of access will vary with the size and structure of the container.

Falls from heights, either into the container, outside the container, or within the container, are risks that need appropriate controls. Ergonomics and the prevention of fatigue are additional factors that need to be considered for fall risks. An ergonomically sound and safe method of moving between different levels is necessary. Designers must have regard to ergonomic design principles, and appropriate handholds and footholds should be determined (OHS Regulation, clause 89(2)). The practicability of control measures should take frequency of access into account – with more frequent access, stricter engineering controls will be needed.

Since users of bulk containers must also control the risk of falls, and so the designer should provide advice on the means chosen and the use of this means, in the manufacturer's instructions (see section 10.3).

4.2.2 Controlling risks

To reduce risks, consider providing means of access to parts of the container in the following order of preference, from:

- ground level
- a floor, level walkway or platform
- a sloping walkway or stairway
- ladder.

Ladders should not be provided for use as a work platform and are not appropriate where work requires both hands to be free of ladder handholds.

4.3 Access structures - ladders, stairways and platforms

Structures providing access, such as fixed platforms, walkways, stairways, and ladders, should be designed to eliminate or minimise the risk of slips, trips or falls. Fall protection, or the provision of attachment points for fall arrest devices, is an important consideration.

To prevent falls, designers should observe AS 1657 - 1992, *Fixed platforms, walkways, stairways and ladders - Design, construction and installation*, which has the legal status of an approved industry code of practice.

Experience has shown that the following features of AS 1657 are important and should be considered where determining each design:

- (a) Access ladders and their fixings should be designed to withstand a minimum live load of 1.5 kN (150 kg).
- (b) Fall protection should be provided for all access ladders and access points, such as safety cages where reasonably practicable, and attachment points for fall arrest devices provided.
- (c) Guard railing should be provided around the edges of platforms and walkways where there is a risk of a person falling in excess of two metres (eg from the roof). Alternatively, fall arrest attachment points should be provided, if other means of protection are not reasonably practicable, and notices advising of the need to use a fall arrest device displayed.
- (d) Access ladders should be made inaccessible to unauthorised persons. Means of achieving this include:
 - i. Blocking the base of the ladder safety cage by providing a lockable or fixed barrier.
 - ii. Adding a lockable cover to the ladder rungs up to a height of two metres.
 - iii. Providing means to fold up or slide up the lower two metres of the ladder - such means should not create a manual handling hazard.
 - iv. Providing a detachable ladder up to a height of two metres in conjunction with provisions to prevent the top of the ladder from lateral movement.
- (f) The angle of slope of rung ladders should be between 70 and 75 degrees to the horizontal, where reasonably practicable. Where angled ladders are not practicable, vertical ladders should be less than six metres in height, and have fall protection provided (such as a ladder cage or fall arrest attachment points). The ladder cage should be joined to guard railing at roof level to prevent falls during roof access.

- (g) To reduce fatigue, ladders should have a rest platform (landing) located every six metres, where reasonably practicable. For practical reasons, this may not necessarily result in a change of direction, but should be staggered.
- (h) Stiles of ladders should be continuous so that a continuous ergonomic handgrip while climbing is possible. Stiles should project at least 900 mm above their landing, or be integrated into a ladder cage or platform guardrails.
- (i) The sheet metal shell of a container may need local reinforcement for supporting the ladder.
- (j) Rungs should be spaced not less than 250 mm nor greater than 300 mm. Where rungs provide hand grips (eg a vertical ladder), the rungs should provide adequate ergonomic grip and support, and be not less than 20 mm outside diameter.
- (k) Rungs should be securely fastened to the stiles (eg by welding or swaging). To reduce corrosion, they should be completely sealed at the point where they enter into or contact the stiles, and the ends of tubular rungs should be left open.
- (l) The minimum clearance at the back edge of the rung of a rung ladder with the container shell should not be less than 200 mm.
- (m) Walkways should not be sloped in excess of 20 degrees (1 in 2.7). Slip resistant surfaces, such as cleated or grated walkways, should be provided where a walkway is sloped at an angle greater than seven degrees (1 in 8). Walkways should have a clear width, measured between the inner edges of the guardrails, of not less than 550 mm.
- (n) Access along container roofs that are sloped at an angle of more than 20 degrees should be either via a stairway or horizontal platform, with guardrails.
- (o) A toe board or other protection to prevent falling objects should be provided at the edge of a walkway, platform or landing where an object could fall more than two metres.
- (p) If the access point is under six metres in height and no fixed ladder is provided, and where access is intended by the use of a temporary or removable ladder (eg for maintenance only), a permanent attachment point (such as a hook) or tie off point, should be provided to prevent the ladder slipping.
- (q) Attachment points for fall arrest and rescue devices should be included at heights over two metres.

4.4 Access openings

Access openings (where provided) should be located near the base of the container or field bin and allow for safe ground level access.

The area of an access opening should not be less than the equivalent area of 450 mm x 450 mm.

Further advice on access openings is provided in Chapter 5 below.

4.5 Internal access

The internal spaces of bulk containers may be classified as confined spaces – refer to the definition to make a determination and then determine which procedures are applicable. Consider the additional risks of sloping floors of self-emptying containers.

The type of access may include permanent access, or design allowance for the installation of temporary access. Attachment points for fall arrest and rescue should be included, where appropriate.

The container should be designed so that internal access is not required, or the need minimised and restricted. Means of achieving this include the following:

- providing outlets and external facilities for cleaning the inside of the container
- designing the structure and the mechanical parts so that maintenance can be carried out without requiring entry
- providing means for activities such as sampling from outside the container
- reducing the need for internal ladders by providing entry at the base (or at floor level)
- warning signs (see section 10.2)
- where hatches allow entry onto sloping floors or sides of a container, provide additional measures to aid entry and exit (eg a handle and/or step).

Further advice on openings is provided in chapter 5 below.

CHAPTER 5 - Container openings and hatches

Risks arise with entry into a container, and stored substance streaming from the container, that need to be eliminated or controlled.

Preventing or restricting entry, such as reducing the size of openings or providing locking mechanisms for gates and hatches, can reduce risks. If entry is essential for the operation, other controls should be indicated in the manufacturer's instructions (see section 10.4).

5.1 Openings above maximum level of stored substance

Provision should be made to prevent or restrict entry into openings above the maximum level of stored substance and to prevent falls into the container. This should include the following:

- limiting openings to an area equivalent to 150 mm in diameter
- providing fixed guards that require tools to dismantle or keys to unlock. Such guards should have openings of an area no greater than the equivalent of 150 mm diameter. A hinge or other attachment should be used to permanently attach the guard to the container.

5.2 Openings below maximum level of stored substance

- Outward-opening gates, doors or covers located below the maximum level of stored substance and potentially in contact with the stored substance, should have adequate control measures to prevent accidental release. As examples, the design should ensure the following:
 - ✓ they cannot open accidentally (eg by vibration, or by being knocked by people or vehicles)
 - ✓ mechanical means restrict the extent of initial opening
 - ✓ opening is effected from a position, and with a procedure, that protects the operator from injury
 - ✓ a suitable readily visible sign is affixed, warning of potential dangers of streaming substance (see section 9.1).
- The doors and catches should be sufficiently structurally sound to take the load of the stored substance without bursting open.
- If access to the container is possible while it contains stored substance, consider providing access for emergency rescue that opens outward to enable the stored substance to be removed rapidly to release anyone that may be trapped inside. The bottom hatch (normally used for unloading) could meet this requirement, however, usually more than one point will be required to eliminate structural stresses and allow substance to empty freely.

CHAPTER 6.0 - Loading and unloading the container

Loading and unloading may present risks relating to streaming substance, pressurisation and access when operating plant or checking substance levels within the container.

6.1 Controls for the discharge gates and valves

Controls for the discharge gates and valves should have the following features:

- protected, or placed in a position to prevent their inadvertent operation
- placed so as to allow operation of the flow from a safe position and to allow visual monitoring of the discharge
- lockable when not in use, to prevent unauthorised access.

6.2 Material level indicating devices

To minimise the need for access to heights, a device visible at ground level should be incorporated to indicate the level of substance stored within the container (eg sight glasses).

Where containers are filled by pressurised transfer systems, pressure sensors and high level sensors could be necessary to prevent over-pressurisation.

6.3 Clearance under discharge gate – conical silos

The minimum clearance under the discharge gate of a silo with a conical base should be adequate to allow for easy placement of a discharge conveyor, auger with an inlet chute, or other device, where such systems are to be used. Clearance should be sufficient to allow proper guarding of the auger or conveyor.

6.4 Cone angle – self emptying containers

To assist complete emptying, and to eliminate the need for entry or other means of releasing stored substance, the base cone angle of self-emptying containers should be at least three degrees greater than the angle of repose of the intended stored substance.

6.5 Guarding of machinery

Plant used for loading and unloading, such as augers, should have appropriate guarding (see advice in chapter 9).

CHAPTER 7 - Preventing fires and explosions in containers

7.1 Hazards and risks

7.1.1 Causes of fires and explosions

The risks of fires and explosions need to be assessed from the hazards presented by the nature of the substance intended to be stored in the bulk container, and the risks arising from any associated processing plant (eg solvent extraction of seed oil). Advice on restrictions or recommendations on the substance that can be stored, must be specified and provided in the manufacturer's instructions (see section 10.4). Common substances that should not be stored must also be specified.

Grain and organic dusts, metal dusts and other substances can become an explosion risk. Examples of the way explosive atmospheres can be created include the following:

- gases generated within containers
- airborne dust generated during loading or unloading
- dust deposits on surfaces can be stirred by mechanical action or air drafts and become airborne
- certain bulk solids emit flammable gases during storage, creating a potential fuel for gas explosions.

Explosions can occur when an ignition source comes into contact with a combination of air and fuel mixture. It is important to ensure that dust or flammable vapours in containers is prevented from coming into contact with sources of ignition such as flames, electrical arcing, mechanical sparking, and static electricity. Consequently, potential ignition sources, such as flames, electrical sparks and lightning, must be identified and controlled. Dust layers can self-heat and smoulder, thereby creating an ignition source.

Containers associated with food processing, such as flour milling, dried powder production, sugar processing and the spray drying of milk or coffee, have an explosion risk.

The fire and explosion risks of any associated use and storage of solvents or fuels (eg LP Gas used for heating and drying) also need to be assessed in relation to dangerous goods legislation and relevant Australian Standards.

The use of water in fire fighting can create additional hazards, either by chemical reaction or stirring up deposits.

Sealed containers can be designed to have all their openings sealed to prevent oxygen from entering or to allow fumigation. The top and bottom openings are normally sealed with rubber-gasket hatches. When the hatches are tightly closed and the container is filled, the oxygen concentration should be insufficient to support a fire.

However, if the container is not properly sealed or is not operating as designed, enough air may enter and provide oxygen to allow a fire to smoulder, causing combustible gases to accumulate (due to incomplete combustion). Any increase in air, such as by opening hatches, can create an explosive atmosphere. These risks may also apply to other types of oxygen limiting containers or semi-sealed containers.

7.1.2 Dangerous goods classification

Designers must have regard to the dangerous goods classification of the intended stored contents of the container, and provide equipment that is suitable and safe for use with the dangerous goods.

Some agricultural products are classified as dangerous goods Class 4.2 *Substances liable to spontaneous combustion*. The classification of typical agricultural products includes:

- UN 1363 Copra (dried coconut kernels)
- UN 1364 Oily cotton waste, including cotton hulls and lint from cotton gins
- UN 1373 Fibres, animal or vegetable with oil (includes seed cake with more than 5 per cent oil content)
- UN 1374 Fish meal (fish scrap) unstabilized (Class 9, UN 2216, if stabilized)
- UN 1386 Seed cake (more than 1.5 per cent oil and up to 5 per cent, and not more than 11 per cent moisture) (classified as UN 1373 if more than 5 per cent oil content)
- UN 2217 Seed cake (if not more than 1.5 per cent oil and not more than 11 per cent moisture)
- UN 3088 Self-heating solid, organic, not elsewhere specified.

UN 1373 also includes fabrics and synthetic fibres if they contain oil. 'Seed cake' is derived from a number of crops including coconut, cotton seed, peanut, linseed, maize, soy, rice and sunflowers. This could be in the form of pellets, flakes, or meal as well as cake.

Solvent extracted soybean meal containing not more than 1.5 per cent oil and 11 per cent moisture, and which is substantially free of flammable solvent, is not classified as a dangerous good.

Farms and other industries could also store ammonium nitrate fertiliser, class 5.1 or class 9 depending on the exact classification. Wet cotton is also classified as dangerous goods (UN 1365).

7.2 Control measures

Control measure should focus on reducing the concentration of dusts and eliminating ignition sources. Fire suppression measures may also be needed. The OHS Regulation specifically requires that the build up of unwanted substances or material is minimised (clause 89(2)(c)).

If the stored substance may generate flammable or explosive atmospheres, or if dangerous goods are stored or used, hazardous areas should be identified in order to determine suitable control measures.

To control fire and explosion risks consider the following:

- (a) Provide explosion relief vents or doors where the risk assessment indicates a risk of dust or gas explosions (see advice in section 3.8).
- (b) The design should eliminate near horizontal internal surfaces, ledges and overlaps where dusts may deposit and accumulate.
- (c) To determine the location of electrical plant and/or the level of protection required, classify the hazardous areas in relation to combustible dusts, and also flammable atmospheres, where relevant. See AS/NZS 61241 series, *Electrical apparatus for use in presence of combustible dust*, particularly *Part 3 – Classification of areas*. For flammable gases, determine the area classification using Australian Standard AS2430.3–*Classification of hazardous areas* (all parts). Note that AS2430.3 will also need to be observed if the container is associated with a solvent extraction process.

- (d) Locate electrical equipment, eg motors, control stations, switches, motor starters, lighting fixtures, socket outlets and plugs, away from the hazardous area. If that is not practicable, ensure adequate protection (see points (f) and (g) below).
- (e) Avoid the use of mechanical equipment that can produce sparks inside the container.
- (f) If electrical equipment is to be used in or near containers, provide electrical equipment designed to reduce the risk of dust explosion. See AS/NZS 61241 series, *Electrical apparatus for use in presence of combustible dust*. For further information see section 9.2.
- (g) Where electrical equipment is necessary, hazardous areas should be identified to determine the suitability of electrical plant. In hazardous areas, provide plant that complies with Australian Standard AS 2381 – *Electrical equipment for explosive atmospheres - Selection, installation and maintenance*. To make decisions about the level of protection required, determine the area classification using Australian Standard AS2430.3 (all parts) – *Classification of hazardous areas*. Note that AS2430.3 (all parts) will also need to be observed if the silo is associated with a solvent extraction process.
- (h) The possible build up of a static electrical charge by equipment also needs to be considered as an ignition source. Further advice is provided in AS/NZS 1020 *Control of undesirable static electricity*.
- (i) Lightning may present an ignition hazard. Advice on lightning protection is provided in AS 1768 *Lightning protection*.
- (j) Where the contents are potentially spontaneously combustible (eg dangerous goods of class 4.2), provide means to allow the injection of inert gas (such as carbon dioxide or nitrogen) from ground level, to extinguish or control any internal fire. Appropriate fittings (eg gas tight threads) compatible with the proposed method of gas injection should be considered. Allowance for space for vehicle access to supply gas (such as a bulk tanker) may be required when determining location requirements for the design.

CHAPTER 8 - Additional design considerations for oxygen limiting silos (including sealed and semi-sealed silos) to prevent fires and explosions

8.1 Hazards and risks

Sealed containers can be designed to have all their openings sealed to prevent oxygen from entering or to allow fumigation. The top and bottom openings are normally sealed with rubber-gasket hatches. Some have pressure equalisation devices such as breather bags, while others are semi-sealed by having limited openings.

The design should consider the effects of pressure and temperature changes resulting from the following:

- discharge or filling
- changes in the air temperature inside the silo (resulting from extreme hot or cold weather conditions)
- heat caused by the absorption of moisture, decomposition or reaction of substance stored within the silo (see advice and classification in Chapter 7)
- aerating or drying systems
- fumigation systems.

When the hatches are tightly closed and the container is filled, the oxygen concentration should be insufficient to support a fire. However, if the container is not properly sealed or is not operating as designed, enough oxygen may enter to allow a fire to smoulder, causing combustible gases to accumulate due to incomplete combustion. Any increase in oxygen in such an environment can create an explosive atmosphere. These risks may also apply to other types of oxygen limiting containers or semi-sealed containers.

The risk assessment should include a consideration of the variation of the internal pressure and temperature outside of the design parameters that could lead to structural collapse, fires or explosions.

8.2 Control measures

To control the above risks, an oxygen limiting or sealed silo should be provided with the following:

- a pressure relief device to ensure that its internal pressure is within the limits allowed by the design, and where necessary a vacuum breaker device to prevent implosion
- a pressure gauge to measure internal pressure
- provision for a temperature gauge or other means to measure internal temperature
- a means of warning when internal temperature exceeds that allowed by the design, or internal pressure is outside the limits allowed by the design
- warning signs displayed to warn fire fighters that the silo is in fact a sealed silo or other oxygen limiting type - see section 10.2(e).

These controls are in addition to those outlined in Chapter 7 for fire and explosion risks.

8.3 Provision for pressure testing

To enable the user to check the effectiveness of the seals, sealed containers such as silos should have a pressure relief valve and a valve or method to allow the user to conduct a pressure test, to determine whether the silo is sealed, so an effective and safe fumigation can be conducted. The testing method should be one that is easily administered by the operator (eg appropriate for farmers).

CHAPTER 9 - Ancillary equipment safety

9.1 Machine safety and guarding

All ancillary plant, such as augers, conveyor drive shafts and pulleys, should be guarded to prevent anyone coming into contact with moving parts of the machinery. Further advice is provided in AS 4024.1 - *Safeguarding of machinery Part 1: General principles*.

If conveyors are fitted or supplied, the requirements of AS 1755 - 2000 *Conveyors - Safety requirements*, which has the legal status of an approved industry code of practice in NSW, should be observed.

Appropriate controls and emergency stops should be provided - for details see clauses 91 and 92 of the OHS Regulation.

Electrical installations associated with the bulk container, for example to provide power outlets or lighting, must comply with AS/NZS 3000 - *SAA Wiring rules*, which references other relevant standards, as required by the *Electricity Safety (Electrical Installations) Regulation 1998*. Power outlets must be RCD protected.

9.2 Electrical protection – dusts, water and vermin

If the container is to be used for substances that could produce dusts with a combustion or explosion hazard, associated electrical equipment needs to be intrinsically safe, or protected – ie rated for the hazards that could be present (including the dangerous goods classification of the intended stored substance).

Provide electrical plant (or components) designed to reduce the risk of explosion from use near containers (for example, provide equipment complying with Australian Standard AS 2381 – *Electrical equipment for explosive atmospheres - Selection, installation and maintenance*). To make decisions about the level of protection required, determine the area classification using Australian Standards in the AS/NZS 61241 series *Electrical apparatus for use in presence of combustible dusts*. The equipment must be explosion protected and have approval for the applicable zone, and the relevant Gas Group and Temperature Rating where relevant.

To prevent shocks during cleaning with water, ensure that electrical equipment is protected against penetration by water. Minimum required protection is IP65 to Australian Standard AS 1939 - 1990 *Degrees of protection provided by enclosures for electrical equipment*. Consider the impact of water during washing of the container for cleaning purposes.

Where vermin could chew through electrical cabling, steel wired armoured cable should be considered.

9.3 Wheels on field bins, including retraction and extension equipment

Fatal and serious injuries have resulted from the inability to control the sudden change of loads on spring-assisted or eccentrically operated levers when lowering or raising the wheels of field bins.

The risk assessment must identify and assess manual handling risks associated with the wheeling of field bins, and control measures must be determined. This should include consideration of the following:

- the effort required to operate the lever for raising or lowering the wheels of the equipment
- the ability to control the full stroke of the lever when raising or lowering the wheels of the equipment under all foreseeable modes of operation such as the removal of the wheels for maintenance or repair purposes
- the effort required to place a tow hitch onto a tow ball

- the effort required to set up the bin for towing. This may require the fitting of adjustable stands or jockey wheels
- the effort required to move the bin. This may influence the selection of the size and type of wheels to be used and may require the fitting of jacks or winches.

CHAPTER 10 - Provision of information

10.1 Legal obligation

The designer must specify systems of work and operator competencies where necessary (OHS Regulation clause 95). Designers, manufacturers, and suppliers including importers of plant must provide (or arrange for the provision of) adequate information to allow users to work safely (the obligations for various parties are in the OHS Regulation, clauses 96, 105, 122, 132). This needs to include advice on the control measures determined by the designer, manufacturer or supplier, and included in the safety features of the container supplied. Ways of doing this include: warning signs and markings, a specification plate, and safe installation and operating instructions, in English, and in SI units where appropriate. Signage relevant to emergency services should be considered.

10.2 Warning signs and markings

The following points should be considered in relation to providing suitable signs, marking or labels.

- (a) Warning signs and markings should be permanent (eg resist fading and erosion by wind blown dust) (for advice see AS 1319 *Safety Signs for the Occupational Environment*).
- (b) Control levers and buttons should be labelled to indicate their intended purpose, and indicate hazards created if used outside the designer's intended use.
- (c) Warning signs providing administrative controls for confined spaces and other hazards, such as the following, should be displayed where relevant to the control measures chosen, as examples:
 - adjacent to access openings: DANGER – CONFINED SPACE ENTER ONLY WHEN CONTAINER EMPTY – CONFINED SPACES SAFETY PROCEDURE MUST BE FOLLOWED
 - at all other openings greater than 250 mm: DANGER - CONFINED SPACE - DO NOT ENTER (or DO NOT ENTER UNLESS AUTHORISED)
 - a visible sign should be permanently affixed to each outward opening containment device displaying the following warning: DANGER OF STREAMING MATERIAL - OPEN WITH CAUTION.
- (d) The allowable loads on ladders should be permanently displayed. If fall arrest attachment points are provided, a notice should advise of the need to use these.
- (e) Warning signs regarding fire fighting, such as:
 - information for fire fighters concerning the proper fire extinguishing techniques, visible from a safe fire fighting position
 - a warning prohibiting directing water or foam to extinguish the fire through the top openings as this may result in an explosion, or collapse due to product expansion
 - identification of the type of silo or container – eg whether it is a sealed or semi-sealed design, so that fire fighters can adopt an appropriate procedure.
- (f) Signs relating to the identification of the intended contents, including the dangerous goods classification of the contents if applicable.
- (g) Towing and braking requirements for relocatable containers such as field bins and chaser bins.

10.3 Specification Plate

A specification plate showing the following information where relevant should be permanently attached to the container:

- manufacturer's name and contact details
- model type
- serial number
- year of manufacture
- maximum allowable load of stored substance in tonnes
- type of substance or produce that may be stored (or not stored)
- silo design type if sealed or semi-sealed (ie oxygen limiting)
- maximum allowable filling and discharge rates, and/or pressures
- whether or not eccentric (ie off-centre) filling is allowed, and if so the allowable eccentricity
- maximum allowable pressure or vacuum in the container and/or operating temperature
- material specification (ie of the material the container is made from)
- specification of internal or external cladding
- corrosion allowance
- for relocatable containers (such as chaser or field bins) the weight of the container, towing and braking requirements and the maximum allowable ground slope
- for containers with wheels such as field bins and chaser bins, the correct tyre pressure
- any other restrictions aimed at ensuring the container is used only for its intended purposes.

The items on the specification plate should also appear in the manufacturer's instructions (eg in the form of an operating manual, described below in section 10.4).

To prevent overloading, provide users with a description of storage capacity. For cylindrical farm silos, see Australian Standard AS 3729 - 1989 *Farm Silos - Determination of storage capacity* for advice on determining this.

10.4 Safe installation and operating instructions

Designers must develop information on safe use. Ultimately, the supplier of the bulk container is the person who must ensure that their clients are provided with all necessary information that relates to the safe use. This should be based on information that was provided, in turn, by the designer and manufacturer. Where this is not available, for example, for second hand equipment or for items imported without the information provided in English, it must be developed by a competent person.

Safe installation, operating and maintenance instructions should be provided in the form of a manual (the 'manufacturer's instructions'), including systems of work and operator competencies. This needs to describe how the control measures determined by the designer are to be used.

Information provided should include the following:

- Identification of the various components and features of the container relevant to safety.
- Advice concerning the safe assembly, installation, dismantling and disposal of the container, including site requirements, foundations, loadings and any tests required, such as the pressure testing of sealed silos.
- Operating instructions and systems of work (including preventing fires and explosions) to ensure safe use, loading and unloading instructions, such as transfer rates and pressures, any loading limitations, and restrictions on entry. Advice on the safe operation of wheel retraction mechanisms, if fitted to relocatable containers such as field bins.
- Safe entry and access instructions, including access to stairs, ladders, roofs, base and interior of the container, and the use of fall arrest and rescue points.
- Maintenance and cleaning instructions, including any testing and inspections, and any special conditions that require attention, such as faults, deformation, corrosion, subsidence indicators and lopsided storage. The time periods and method for maintenance, inspection and cleaning should be specified, including the period for major in depth inspection (overhaul inspection), taking into account environmental variations and location (eg those installed in marine environments may need more frequent inspection).
- The type of substance or produce that may be stored, limits on the angle of repose, and the relevant hazards and risks, such as rotting of stored substance, gas or dusts that may be generated, the dangerous goods classification of contents, any hazardous substances classifications that may be relevant (eg grain dust is classified as a hazardous substance) and related hazards such as pesticide use.
- Instruction on how to extinguish fires and other emergency procedures related to the nature of the container and its contents. Include any special measures for oxygen limiting silos such as inert gas injection, drenching or purging systems. Provide advice on monitoring the temperature and the appropriate temperature range to assist early detection of potential over-heating and fires.
- A list of recommended spare parts and safety critical maintenance (eg renewing seals).
- Other relevant safety information, including the operation of any ancillary plant and equipment provided such as conveyors.
- All relevant training of operators that is required for healthy and safe operation, and other relevant criteria such as fitness of operators.

APPENDIX 1 - Relevant Standards and WorkCover publications

The publications listed below provide guidance. Some have been adopted as codes of practice and this is indicated.

Australian Standards

| | |
|----------------------|--|
| AS/NZS 1020 | Control of undesirable static electricity |
| AS 1170.2 | Structural design actions - wind actions |
| AS 1319 | Safety Signs for the Occupational Environment |
| AS 1657 – 1992 | Fixed platforms, walkways, stairways and ladders – Design, construction and installation (Note that this standard is an approved industry code of practice in NSW, adopted by the Code of Practice for Technical Guidance, commencing on 21 September 2001.) |
| AS 1755 – 2000 | Conveyors - Safety requirements (This standard is an approved industry code of practice in NSW, adopted by the Code of Practice for Technical Guidance, commencing on 21 September 2001.) |
| AS 1768 | Lightning protection |
| AS/NZS 1891.2 – 2001 | Industrial fall-arrest systems and devices – Part 2: Horizontal lifeline and rail systems. (This standard is an approved industry code of practice in NSW, adopted by the Code of Practice for Technical Guidance, commencing on 21 September 2001.) |
| AS/NZS 1891.4 – 2000 | Industrial fall-arrest systems and devices – Part 4: Selection, use and maintenance. This part provides advice on anchorage points. (This standard is an approved industry codes of practice in NSW, adopted by the Code of Practice for Technical Guidance, commencing on 21 September 2001.) |
| AS 1939 | Degrees of protection provided by enclosures for electrical equipment |
| AS/NZS 2312 | Guide to the protection of iron and steel against exterior atmospheric corrosion |
| AS 2381 | Electrical equipment for explosive atmospheres - Selection, installation and maintenance |
| AS2430.3 (all parts) | Classification of hazardous areas |
| AS 2865 | Safe working in a confined space |
| AS/NZS3000 | Electrical installations (known as the Australian /New Zealand Wiring Rules) (Note that this standard is mandatory in NSW.) |
| AS 3729 | Farm silos- Determination of storage capacity |
| AS 3773 | Bulk solid containers - Safety requirements |
| AS 3774 | Loads on bulk solid containers |
| AS 4024.1 | Safeguarding of machinery Part 1: General principles |
| AS/NZS 61241.3 | Electrical apparatus for use in the presence of combustible dust – classification of areas |

WorkCover Publications

Code of practice for the safe use of bulk solids containers, including silos, field bins and chaser bins

Summary of the OHS Act 2000

Summary of the OHS Regulation 2001

Plant guide 2001

Fact Sheet: Plant hire and lease

Code of practice: noise management and protection of hearing at work

For further information contact the Rural Information Hotline on (02) 8882 4235.

APPENDIX 2 - Legal duties of suppliers relating to health and safety at work

This appendix is intended to provide a summary only, and is not to be construed as waiving or modifying any legal obligation. To ensure compliance with legal obligations, suppliers need to refer to the *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001*, and become familiar with the specific requirements applying to the containers they design, manufacture or supply.

A2.1 Duties of designers, manufacturers, importers and suppliers of plant and substances

(a) The OHS Act

Section 11 of the *Occupational Health and Safety Act 2000* (OHS Act) places duties on designers, manufacturers, and suppliers of plant and substances for use at work to:

- ensure that the plant or substance is safe and without risks to health when properly used, and
- provide, or arrange for the provision of, adequate information about the plant or substance to the persons to whom it is supplied to ensure its safe use.

'Manufacture' includes the assembly, installation and erection of plant.

(b) The OHS Regulation

Duties are further specified in chapter 5 of the *Occupational Health and Safety Regulation 2001* (OHS Regulation).

Designers must identify foreseeable hazards, assess risks and eliminate the risks, or if elimination is not reasonably practicable, control the risks. Hazards include all those that could arise during the lifetime of the item of plant including: manufacture, installation, erection, commissioning, use, repair, dismantling, storage or disposal.

Note that suppliers of plant also include:

- plant hire companies (who have specific duties in chapter 5 of the OHS Regulation)
- importers, who must ensure that the duties as designers and manufacturers are met (see clauses 85 and 99 of the OHS Regulation)
- persons who sell or transfer plant (including second hand dealers), (see clauses 121 to 123 of the OHS Regulation).

Further, Chapter 5 of the OHS Regulation prescribes specific requirements in relation to designing, manufacturing and supplying plant. This includes the following:

- some specific requirements in the identification of hazards, assessment and control of risks
- provision of certain information to persons who have responsibilities under the Regulation such as installers and users of plant
- guarding, operational controls and emergency stops
- specification of competencies for users in all aspects, including erection and commissioning.

Risks must be eliminated, or if this is not reasonably practicable, risk must be controlled. Clause 87(2)(e) specifically includes an obligation to take into account control measures required by the Regulation, even when the

obligation falls on other persons, such as users of plant. When controlling risk, the OHS Regulation (clause 5) specifies that the 'hierarchy of control' must be used.

Specifically, clause 89(2) of the OHS Regulation requires designers to ensure that plant is designed:

- (a) having regard to ergonomic principles and,
- (b) so that safe access can be gained to the various components for purposes of maintenance, adjustment, repair and cleaning and,
- (c) so that the build up of unwanted substances or materials that create a risk are minimised and,
- (d) in the case of plant designed to work near electrical conductors, having regard to such safety requirements as insulation, earthing and appropriate access to controls.

Clause 95 requires the designer to specify systems of work or operator competencies if they are necessary for the safe manufacture, installation, erection, commissioning, use, repair, maintenance, dismantling or disposal of plant.

Clause 96 of the OHS Regulation requires designers to provide information to other persons who have responsibilities under the OHS Regulation with all available information about the plant that is necessary to enable the other persons to fulfil their responsibility with respect to following: identifying hazards, assessing risks arising, eliminating or controlling those risks and providing information. The designer must ensure that the manufacturer (including a person manufacturing the plant for their own use) is provided with information to enable the plant to be manufactured in accordance with the design specifications. As far as practicable, the information about the item of plant must include the following:

- the purpose for which the plant is designed
- testing or inspections to be carried out
- installation, commissioning, operation, maintenance, inspection, cleaning, transport, storage and dismantling
- systems of work necessary for safe use
- knowledge, training and skill necessary for persons undertaking inspection and testing of the plant
- emergency procedures.

The duties of manufacturers and sellers in relation to the assessment and control of risks are also set out in chapter 5 of the OHS Regulation.

A2.2 Duties of controllers of work premises, plant or substance

Section 10 of the OHS Act sets out the duties of persons who have control of work premises, plant or substances as follows:

1. a person who has control of premises used by people, as a place of work must ensure that the premises are safe and without risks to health
2. a person who has control of any plant or substance used by people at work must ensure that the plant or substance is safe and without risks to health when properly used.

A place of work is essentially any place where persons work, including any premises, any installation on land or any moveable structure.

Examples of persons who have control of work premises, plant or substances related to farm bulk handling and storage include:

- owners who lease farms or rural equipment
- persons who have, under any contract or lease, an obligation to maintain silos, augers, conveyors and other bulk handling equipment.

A2.3 Coordination of duties and multiple responsibilities

Note that a responsibility may fall on more than one person, in which case the parties need to ensure that their responsibilities are discharged in a coordinated manner (OHS Regulation, clause 8).

Similarly, one person may have several of the responsibilities described above.

A 2.4 Reasonably practicable

NSW legislation requires employers to do certain things when it is 'reasonably practicable'. This code of practice also uses these words. This term is not defined in legislation, but has been considered in case law.

Deciding what is 'reasonably practicable' means having regard, as the context permits, to the:

severity of the hazard or risk

- state of knowledge about the hazard or risk and ways of eliminating or controlling these
- availability and suitability of ways of averting, eliminating or controlling the hazard or risk
- cost of implementing the ways of averting, eliminating or controlling the hazard or risk
- the likelihood of the risk occurring.

These factors need to be weighed up against one another and applied to the circumstances of each case. For example, costs need to be weighed against the severity of the risks.

While the information given in this appendix is for your guidance, in considering these factors you may need legal advice on applying the obligations under the Act and Regulation to each particular situation and circumstances.



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Department of Commerce

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PRIVATE ADVERTISEMENTS

COUNCIL NOTICES

ALBURY CITY COUNCIL

Adopted Street Names in Thurgoona

NOTICE is given, as required under section 9 (a) of the Roads (General) Regulation 2000, that Council as the responsible roads authority has adopted six (6) road names in the area bounded by Corrys Road, Dallinger Road, Fallon Street, Hoffmann Road and Terry Court at Thurgoona. The adopted road names are:

- Ceres Drive
- Gabel Crescent
- Kappler Street
- Merkel Street
- Reis Court
- Roemer Court

These names will be allocated to new roads when they are constructed on land owned by the Albury Wodonga Development Corporation in the area referred to previously. MARK CLIFFORD HENDERSON, General Manager, Albury City Council, PO Box 323, Albury NSW 2640.

[1567]

FORBES SHIRE COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

NOTICE is hereby given that Forbes Shire Council, in pursuance of section 10 of the Roads Act 1993, dedicates the land described in the Schedule below as public road. CHRISTOPHER DEVITT, General Manager, Forbes Shire Council, PO Box 333, Forbes NSW 2871.

SCHEDULE

Road widening area being Lot 1, DP 1035807 having an area of 49.53 square metres.

Road widening area being Lot 2, DP 1035807 having an area of 146.4 square metres. [1571]

GOSFORD CITY COUNCIL

Roads Act 1993

PURSUANT to the Roads Act 1993, section 10, the land described in the Schedule is public road. P. WILSON, General Manager, PO Box 21, Gosford NSW 2250.

SCHEDULE

Lot 3, DP 1006218 and Lot 2, DP 830263. [1569]

HAWKESBURY CITY COUNCIL

Erratum

In the notification appearing in the *NSW Government Gazette* of 8 July 2005 (Gazette No. 86) relating to the Dedication of Land as Public Road at Grose Wold Road, Grose Wold, delete the title "Lot X in Deposited Plan 1028794" and replace with "Lot 3 in Deposited Plan 12952". Hawkesbury City Council. PO Box 146, Windsor 2756.

MARRICKVILLE COUNCIL

Roads Act 1993, Section 16

Dedication of Public Road

PURSUANT to section 16 of the Roads Act 1993 and a resolution of the Council at a meeting held on 16 June 2005 Marrickville Council dedicates as a Public Road the land shown as part of Station Street at Newtown in Deposited Plan 149 being the residue of the land in Certificate of Title, Volume 191, Folio 145 formerly owned by Edward Joseph Rubic. Dated 23 August 2005. CANDY NAY, General Manager, Marrickville Council, Administrative Centre Petersham [1572]

NAMBUCCA SHIRE COUNCIL

Roads (General) Regulation 1994

Naming of Public Roads

IN accordance with the Roads (General) Regulation 1994, to the Roads Act 1993, Council resolved to name the under mentioned road as follows:

| <i>Location</i> | <i>New Name</i> |
|--|-----------------|
| Unnamed road off Marshall Way Nambucca Heads (access to Faringdon Village) | Faringdon Close |

TOM PORT, General Manager, Nambucca Shire Council, Po Box 177, Macksville NSW 2447 [1570]

RANDWICK CITY COUNCIL

Tree Preservation Order 2005

ON Tuesday, 26th July 2005, the Council of the City of Randwick resolved to make this Tree Preservation Order (TPO) and to rescind all other Tree Preservation Orders on and from its coming into force.

1. Introduction

- (a) This Tree Preservation Order (TPO) is made pursuant to Clause 28 of the Randwick Local Environmental Plan 1998 (RLEP).
- (b) The objectives of the TPO are:
 - (i) to encourage the proper management of trees within the City of Randwick for the purpose of promoting a better environment;
 - (ii) to encourage the planting, maintenance and healthy and safe preservation of appropriate trees for the benefit of the community;
 - (iii) to ensure the conservation of the environmental heritage and aesthetic character of the City;
 - (iv) to promote, protect and enhance the environmental qualities of the City;
 - (v) to recognise the importance of ecological sustainability in the planning and development processes; and
 - (vi) to establish procedures for the proper management of trees in order to minimise the unnecessary loss of significant tree resources.

2. Land to which this TPO applies

This TPO applies to all land within the Local Government area of the City of Randwick.

3. Trees covered by this TPO

The trees covered by this TPO are:

- (a) any palm tree, cycad or tree fern;
- (b) any tree in bushland;
- (c) any tree on public land; and
- (d) any other tree with:
 - (i) a height equal to or exceeding 6 metres; or
 - (ii) a canopy width equal to or exceeding 4 metres; or
 - (iii) for a single trunk tree species, a trunk circumference equal to or exceeding one (1) metre at a height of one (1) metre above ground level; or
 - (iv) for a multi-trunk tree species, a combined trunk circumference (measured around the outer girth of the group of trunks) equal to or exceeding one (1) metre at a height of one (1) metre above ground level.

4. Prohibition on ringbarking, etc, any tree

- (a) Subject to subclause (b) of this Clause 4 a person must not on land to which this TPO applies ringbark, cut down, top, lop, remove, injure or destroy any tree covered by this TPO without the consent of the Council.

Note: Pruning, transplanting, root cutting and poisoning a tree would come within this prohibition as would indirect activities that could injure a tree, such as altering the soil level by more than 200mm within 3 metres of the trunk of a tree. Consent for such activities is therefore required.

- (b) Subclause (a) of this Clause 4 does not apply:
 - (i) where it can be demonstrated to the satisfaction of the Council that the tree is dying, dead or has become dangerous;
 - (ii) where the tree is dealt with in accordance with a permit granted under Clause 5;
 - (iii) to the trimming or removal of a tree under section 48 of the Electricity Supply Act 1995;
 - (iv) to the pruning of any tree in accordance with the Australian Standard to provide 0.5 metre clearance of insulated domestic electricity supply cables;
 - (v) to any work carried out by the Council, the State Emergency Services or a person authorised by either of them for safety reasons in response to an emergency;
 - (vi) to the pruning, maintenance, removal or replacement of any street tree, park tree or other tree in a public space or on public land under the care, control and management of Randwick City Council in order to abate any potential or actual danger to persons and/or property and provided such pruning,

maintenance, removal or replacement is carried out by persons authorised by Council and in accordance with the Australian Standard;

- (vii) to any tree growing within two (2) metres of any building comprising a residential dwelling (detached, attached or multi-unit housing) or any retail, commercial, factory, warehouse or storage building (not being an out building) measured horizontally from the closest point of the trunk at one (1) metre from ground level to the closest point of the vertical alignment of the building structure which may be the eave, guttering or fixed awning of the building;
- (viii) to the control, removal or destruction of any tree of a species of plant declared under the Noxious Weeds Act 1993 to be a noxious weed in respect of land within the City of Randwick;
- (ix) to the removal, transplanting or pruning of any tree of a species in the table below, so long as the work is done in accordance with Australian Standard.

| <i>Botanical Name</i> | <i>Common Name</i> |
|-----------------------------------|--------------------|
| <i>Ligustrum species</i> | Privet |
| <i>Ailanthus altissima</i> | Tree of Heaven |
| <i>Ficus elastica</i> | Rubber tree |
| <i>Schefflera actinophylla</i> | Umbrella tree |
| <i>Ochna serrulata</i> | Ochna |
| <i>Nerium oleander</i> | Oleander |
| <i>Cotoneaster species</i> | Cotoneaster |
| <i>Erythrina species</i> | Coral tree |
| <i>Syagrus romanzoffianum</i> | Cocos palm |
| <i>Olea europea var. africana</i> | African Olive |

5. Permit

- (a) Application for a permit to deal with a tree must be made in writing on the application form available from the Council and be accompanied by the administration fee determined from time to time by the Council.
- (b) The administration fee is to cover the cost of administration, site visit, assessment and determination of the application. It is non-refundable.
- (c) Before granting a permit the Council must make an assessment of the importance of the tree or trees concerned in relation to:
 - (i) soil stability and prevention of land degradation, and
 - (ii) scenic or environmental amenity, and
 - (iii) vegetation systems and natural wildlife habitats.
- (d) In granting a permit the Council may impose conditions including but not limited to the following:
 - (i) requiring a copy of the permit to be displayed on the land where the work covered by the permit is to be carried out for a specified period before and after the carrying out of the work;
 - (ii) requiring the permit to be available for inspection by an officer of the Council during the carrying out of the work covered by the permit;

- (iii) where the permit allows for the destruction or removal of a tree or trees, requiring the planting of a replacement tree or trees;
- (iv) where replanting is made a condition of a permit, requiring the protection and care of the new tree or trees for a specified period so that the tree or trees remain in good health and are likely to reach natural size and maturity;
- (v) specifying the period during which the permit will remain in force being not more than one (1) year from the date it is granted;
- (vi) providing that the permit will cease to have effect if a development application is lodged where the proposed development includes work covered by the permit.

6. Penalties

Contravention of this TPO is an offence against the Environmental Planning and Assessment Act 1979 which provides:

- (a) that a person guilty of an offence against the Act shall, for every such offence, be liable to a penalty; and
- (b) that were a person is guilty of an offence involving the destruction of or damage to a tree the Court dealing with the offence may, in addition to or in substitution for any pecuniary penalty imposed or liable to be imposed, direct that person:
 - (i) to plant new trees and vegetation and maintain those trees and vegetation to a mature growth; and
 - (ii) to provide security for the performance of any obligation imposed under paragraph (i) of this subclause (b).

Note: See s126 for the penalty amount. At the date of this TPO the maximum penalty for an offence under the Act is \$1,100,000 or \$110,000 if the proceedings for the offence are brought in the Local Court.

7. Information for Applicants

- (a) Where a tree is listed as a heritage item in Schedule 3 to the RLEP or is within a heritage conservation area development consent is required for development that involves demolishing (removing), defacing (pruning/lopping), damaging (including root cutting) or moving the tree and a permit will not be sufficient to authorise any such activity.
- (b) Where a tree is located on public land and is causing view loss to the occupier of neighbouring private land, application may be made to Council for a permit in accordance with clause 5 above to prune the tree for the purpose of reducing view loss PROVIDED that: any such application for permit is supported by a report of a suitably qualified arborist detailing the proposed pruning and certifying that such pruning will not compromise the health or integrity of the tree and will be carried out in accordance with the Australian Standard.

If the permit is granted, the proposed pruning must be carried out to Council's satisfaction by a suitably qualified arborist at the cost of the applicant.

Note: Nothing in this subclause 7b. shall be construed to fetter Council's discretion in determining the application for permit.

- (c) Where the Council refuses to grant a permit to deal with a tree or grants a permit subject to conditions with which the applicant is dissatisfied, there is no right of appeal to the Land and Environment Court. However, such refusal does not preclude the applicant from lodging an application for development consent to deal with the tree. Should the Council refuse the development application or grant it subject to conditions with which the applicant is dissatisfied, the applicant may then appeal to the Land and Environment Court against the refusal of development consent or the conditions of that consent, as the case may be.

8. Definition of Terms

- (a) Unless the context indicates otherwise, words used in this TPO have the same meaning as those words have in the RLEP.
- (b) In this TPO,

Australian Standard means Australian Standard AS 4373 - 1996 Pruning of Amenity Trees;

bushland has the same meaning as that defined in State Environmental Policy No. 19 - Bushland in Urban Areas;

height means the distance measured vertically between the horizontal plane of the lowest point of the base of the tree which is immediately above ground and the horizontal plane of the uppermost point of the tree;

public land means any land which the public use or are entitled to use for a public purpose including but not limited to a public reserve, a public place, a public road, crown land, community land, public open space, a public walkway and a common;

tree means a highly compartmentalised, perennial, woody (or fibrous) shedding plant that is usually tall, single stemmed and long lived;

width means the distance measured horizontally (in metres) between the two widest points of the tree's canopy. [1566]

GREATER TAREE CITY COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

Parish of Mimi, County of Gloucester

NOTICE is hereby given that Greater Taree City Council, in pursuance of Section 10 of the Roads Act 1993, dedicates the land described in Schedule 1 as public road. P PINYON, General Manager, Greater Taree City Council, 2 Pulteney Street, Taree NSW 2430. (Ref: R4488)

SCHEDULE 1

Lots 2 to 13, DP 1078404

[1575]

ESTATE NOTICES

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of MARIA DZIKOWSKI, late of Bankstown, in the State of New South Wales, widow, who died on 1 October 2004, must send particulars of his/her claim to the executors, John Dzikowski and Christine Helena Teaciuc, c.o. Olliffe & Co., Solicitors, 7/1-5 Jacobs Street, Bankstown NSW 2200, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be 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 4 April 2005. OLLIFFE & CO., Solicitors, 7/1-5 Jacobs Street, Bankstown NSW 2200 (PO Box 145, Bankstown 2200), (DX 11213, Bankstown), tel.: (02) 9790 3903. [1573]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JEAN MERLE PRICE, late of Bankstown, in the State of New South Wales, widow, who died on 11 April 2005, must send particulars of his/her claim to the executrix, Janice Price, c.o. Olliffe & Co., Solicitors, 7/1-5 Jacobs Street, Bankstown NSW 2200, within one (1) calendar month from publication of this notice. After that time the assets of the estate may be 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 28 June 2005. OLLIFFE & CO., Solicitors, 7/1-5 Jacobs Street, Bankstown NSW 2200 (PO Box 145, Bankstown 2200), (DX 11213, Bankstown), tel.: (02) 9790 3903. [1574]

COMPANY NOTICES

NOTICE convening final meeting of creditors.—A.C.N. 087 446 517 PTY LTD, ACN 087 446 517 (in liquidation).—Notice is hereby given pursuant to section 509 of the Corporations Law that the final creditors meeting of the abovenamed company will be held at the office of Lower, Russell & Farr, First Floor, 81 Henry Street, Penrith, on 19th August 2005, at 10:00 a.m., for the purpose of having an account laid before them showing the manner in which the winding up has been conducted and the property of the company disposed of. Persons claiming to be creditors are required to prove their debt by no later than 4 o'clock of the previous day. In default they will be excluded from the benefit of the dividend. Dated this 19th day of August 2005. STEPHEN HENRY LOWER, Liquidator, c.o. Lower, Russell & Farr, Chartered Accountants, First Floor, 81 Henry Street (PO Box 459), Penrith NSW 2751, tel.: (02) 4732 3033. [1568]

FREEDOM OF INFORMATION ACT 1989**Section 14 (1) (b) and (3)****SUMMARY OF AFFAIRS****of the****NEW SOUTH WALES COAL COMPENSATION BOARD****FOI Agency No.1606****SECTION 1 – POLICY DOCUMENTS**

The New South Wales Coal Compensation Board is divided into three (3) operational teams, a Corporate Services Division and a Corporate Support and Information Services Division. The following is a list of documents held by each division.

Assessment:

Procedural Manuals
Assessment Reports
Claim Files
Interim Payments Reports

Modelling:

Colliery/Coal Area information
Coal Area Reports, Plans, Maps
Geological Reports
Mining Reports

Mineral Economics:

Economic Reports

Corporate and Information Services:

Procedures Manuals
Board Minutes
Agenda Papers
Restored Titles Database
Certificates of Title, Deposited Plans, Crown Grants
Information Brochures on Board Processes
Administrative Files (personnel, motor vehicles, financial)
Register of Gifts, Benefits and Hospitality
Annual Reports
Register of Pecuniary Interests of Board Members
Policy Register

Corporate Services:

Consolidated version of Coal Acquisition (Compensation) Arrangements 1985 and amendments relating to the Arrangements
Guarantee of Service
Code of Conduct
Corporate and Business Plans
Equal Employment Opportunity Policy
Corruption Prevention Policy and Procedures
Occupational Health and Safety Policy
Ethnic Affairs Policy Statement
Disability Action Plan
Energy Management Plan
Privacy and Personal Information Protection Plan
Complaints Register

SECTION 2 – STATEMENT OF AFFAIRS

The most recent Statement of Affairs by the New South Wales Coal Compensation Board was published by the Board in the 2004 Annual Report.

Copies of the Statement of Affairs and this Summary are available from the Board. Copies of both documents are free.

SECTION 3 – CONTACT ARRANGEMENTS

Enquiries should be directed to:

FOI Officer
NSW Coal Compensation Board
Level 5, 1 Castlereagh Street
Sydney NSW 2000
GPO Box 2670
Sydney NSW 2001
Telephone: (02) 8226 5423
Toll Free: 1800 670 279
Facsimile: (02) 8226 5490
Email: admin@ccb.nsw.gov.au
Internet: <http://www.ccb.nsw.gov.au>
Hours: 8.30 a.m. to 4.30 p.m., Monday to Friday

Enquiries may be made by person, by telephone, email, fax or post.

FREEDOM OF INFORMATION ACT 1989**Section 14 (1) (b) and (3)****SUMMARY OF AFFAIRS****of the****NEW SOUTH WALES COMMISSION FOR CHILDREN
AND YOUNG PEOPLE****SECTION 1 – POLICY DOCUMENTS**

The following documents are available

- Strategic Plan 2004-2007
- Code of Conduct and Ethics
- Guarantee of Service
- Privacy Management Plan
- The Working With Children Check Guidelines

The Commission has also published annual reports, research reports, newsletters, fact sheets, information sheets, brochures, resource kits and Ask the Children series. A full list of all Commission publications is included in our Annual Report and is also available on the Commission's website at www.kids.nsw.gov.au.

SECTION 2 – STATEMENT OF AFFAIRS

The most recent Statement of Affairs of the NSW Commission for Children and Young People was published in the 2003-04 Annual Report of the Commission. A copy of the report can be obtained free of charge by contacting the Commission at the address below or from the Commission's website at www.kids.nsw.gov.au.

SECTION 3 – CONTACT ARRANGEMENTS

Written inquiries concerning the procedures for inspecting or obtaining the Commission's policy documents should be made to:

The FOI Co-ordinator
Commission for Children and Young People
407 Elizabeth Street
Surry Hills NSW 2001
Telephone: (02) 9286 7276
Facsimile: (02) 9286 7267
Email: kids@kids.nsw.gov.au
Hours: 9.00 a.m. to 5.30 p.m., Monday to Friday

FREEDOM OF INFORMATION ACT 1989**Section 14 (1) (b) and (3)****SUMMARY OF AFFAIRS****of the****OFFICE OF THE PROTECTIVE COMMISSIONER****SECTION 1 – POLICY DOCUMENTS**

The Office of the Protective Commissioner holds the documents described below.

The fact that documents are listed below does not mean that every document in each category will be automatically available. For various reasons (e.g. personal privacy) some documents will not be made available without a written Freedom of Information (FOI) application. However, where the information relates to you personally there should be no need to lodge an FOI application.

Most of the Office documentation is stored as files which are grouped under the following major headings:

1. Administration

All aspects of the Office's internal administration, including budget and financial matters, correspondence, internal and external audit, management information systems, and Minutes of Executive and Branch meetings.

2. Personnel Matters

Including files relating to the recruitment and training of staff and the staff establishment, together with staff members' personnel files.

3. Estate Management

Files which deal with the management and administration of client estates, including matters where private financial managers have been appointed.

4. Policy and Procedure Manuals

The Office of the Protective Commissioner has a number of manuals incorporating estate management and accounting procedures. These manuals are used internally to assist staff in the performance of their duties and to ensure that audit and control procedures are maintained.

5. Business Plan

A Business Plan is available to the public outlining the Office's strategy for the coming financial year.

6. Publications

Brochures setting out the nature of the services provided by the Office of the Protective Commissioner are freely available to the public at no cost.

- Annual Reports (1999 – 2000, 2000 – 2001, 2001 – 2002, 2002 – 2003, 2003 – 2004,) * reports from 2001-2002 are available on OPC's website (www.lawlink.nsw.gov.au/opc)
- Annual Report Highlights
- Client Feedback brochure
- Connect (Newsletter for Service Providers) * the newsletters published since June 2002 are available on OPC's website (www.lawlink.nsw.gov.au/opc)
- Estate Management Service Standards * these are available on OPC's website (www.lawlink.nsw.gov.au/opc)
- Financial and Asset Management Services and Private Management Support Services (explaining the services provided)
- Koori Financial Management
- Managing (Newsletter for Private Financial Managers) * the newsletters published since June 2002 are available on OPC's website (www.lawlink.nsw.gov.au/opc)
- My Budget and Money Plan – A booklet for people with a disability about budgeting and managing money

- OPC News (Client Newsletter bi-annual) * the newsletters published since July 2002 are available on OPC's website (www.lawlink.nsw.gov.au/opc)
- Private Management Support Branch Standards * these are available on OPC's website (www.lawlink.nsw.gov.au/opc)
- Scott's Story, A Booklet for People with an Intellectual Disability
- OPC Fact Sheets:
 - Fact Sheet 1 – What Happens After an Order?
 - Fact Sheet 2 – Who is an Estate Manager?
 - Fact Sheet 3 – What are Substitute Decisions?
 - Fact Sheet 4 – Reasons for Substitute Decisions.
 - Fact Sheet 5 – Sale or Lease of Property
 - Fact Sheet 6 – Purchase of Real Estate
 - Fact Sheet 7 – Deceased Estates
 - Fact Sheet 8 – Financial Planning and Investment
 - Fact Sheet 9 – Claims for Past Care
 - Fact Sheet 10 – How to Seek Review or Revocation of a Financial Management Order
 - Fact Sheet 11 – Facts on Fees
 - Fact Sheet 12 – Banker Arrangements
 - Fact Sheet 13 – Your Rights as a Victim of Crime
 - Fact Sheet 14 – Review of Decisions Administrative Decisions Tribunal

SECTION 3 – CONTACT ARRANGEMENTS

Access to Documents – Requests under the Freedom of Information Act 1989 for access to information in the possession of the Office of the Protective Commissioner are the responsibility of the Freedom of Information Coordinator.

Requests for information should be addressed to the:

Freedom of Information Officer
Office of the Protective Commissioner
PO Box A235
Sydney South NSW 1232, or
Level 15, 133 Castlereagh Street
Sydney NSW 2000
Telephone: (02) 9265 3131
Facsimile: (02) 9264 1458
Outside Sydney: 1300 360 466

Access to personnel documents – Staff members are not required to use Freedom of Information legislation to access their personnel files. A request to access personnel files should be made to the Manager, Human Resources.

Amendment of documents regarding personal affairs – Members of the public seeking to amend Office of the Protective Commissioner documents about their personal affairs should make request these details be updated through the appropriate estate managers or written application to the Freedom of Information Officer at the address provided above. In some cases evidence supporting the amendment(s) being requested will be required and should be included with the application.

Access to all other departmental documents – Brochures produced by the OPC as detailed under “Publications” are freely available by contacting the Community Liaison Officer free of charge.

FREEDOM OF INFORMATION ACT 1989**Section 14 (1) (b) and (3)****SUMMARY OF AFFAIRS****of the****STATE TRANSIT AUTHORITY OF NEW SOUTH WALES****SECTION 1 – POLICY DOCUMENTS**

Corporate Plan
Annual Report
Human Resources Procedures and Policies
Fraud and Corruption Policies and Procedures
Code of Conduct
Protected Disclosures Policy

SECTION 2 – STATEMENT OF AFFAIRS

The State Transit Authority's 2003/2004 Annual Report (describing the operation, functions and structure of the organisation) will service as State Transit's latest Statement of Affairs.

SECTION 3 – CONTACT ARRANGEMENTS

Requests for access to State Transit records or documents under the Freedom of Information Act should be applied for by completing a State Transit FOI Request for Access form available from the Freedom of Information Officer.

Copies of State Transit's Statement of Affairs and any other policy document listed above are also available from the Freedom of Information Officer.

Contact Details:

Freedom of Information Officer
PO Box 2557
Strawberry Hills NSW 2012
Hours: 8.00 a.m. to 4.00 p.m., Monday to Friday

FREEDOM OF INFORMATION ACT 1989
Section 14 (1) (b) and (3)
SUMMARY OF AFFAIRS
of
SYDNEY FERRIES

SECTION 1 – POLICY DOCUMENTS.

General Administration

Customer Service Charter
Customer Communications Policy
Style Guide – Written Communications Policy
Electronic Information Privacy Policy
Records Management Policy
Strategic Planning Policy
Quality Policy
Statement of Business Ethics

Finance

Fraud Control and Corruption Prevention Policy
Fraud and Corruption Reporting Policy
Delegations Policy
Ticketing Control Policy
Procurement Policy
Motor Vehicle Policy

Human Resources

Code of Conduct
Drug and Alcohol Policy
Abandonment of Employment by Employees Policy
Grievance Handling Policy
Learning and Development
Employees Working with Children Policy
Recruitment Policy
Equity and Diversity Policy
Harrasment and Discrimination Prevention Policy
Pregnant Employees Policy
Smoke-free Workplace Policy
Use of Telephones and Mobile Phones Policy
Use of Taxis Policy
Provision of Information to Members of Parliament Policy

OH & S, Risk and Environment

Risk Management Policy
Occupational Health and Safety Policy
Quality Management Policy
Environmental Management Policy
Unauthorised Persons on State Transit Workplace Policy
Waste Management Policy
Accessible Transport Policy

SECTION 2 – STATEMENT OF AFFAIRS

The Freedom of Information Act 1989 (NSW) requires agencies to publish an annual Statement of Affairs. As Sydney Ferries was established as a State owned corporation on 1 July 2004 it has not completed a Statement of Affairs to date. The Statement of Affairs of Sydney Ferries, which provides information on the structure and functions of Sydney Ferries and the categories of documents it holds, will be available in the 2004/05 Annual Report.

SECTION 3 – CONTACT ARRANGEMENTS

Enquiries concerning the procedures for inspecting Sydney Ferries' policy documents and statement of affairs (once completed) should be made to the Corporate Counsel and Company Secretary. These documents may be inspected between the hours of 9am to 5pm at Level 3, 35 Pitt Street, Sydney by prior arrangement.

FREEDOM OF INFORMATION ACT 1989**Section 14 (1) (b) and (3)****SUMMARY OF AFFAIRS****of the****AUBURN COUNCIL****FOI Agency No. 2073****SECTION 1 – POLICY DOCUMENTS**

Auburn Council maintains the following Policy Documents:

Public Access to Records Section 12(6)
Activities in Public Places
Advertising – Public Notices
Anonymous Complaints & Correspondence
Bank Guarantees – Subdivisions
Building Alignment
Building Applications – Notification of Building
Works in Residential Areas – Permissible
Hours for Demolition
Buskers
Car Parking – Section 94 Residential Areas
Carports in Residential Areas
Child Care Centre
Civic Expenses and other Facilities for Councillors
Code of Conduct
Code of Meeting Practice
Collection Development Policy (Library)
Community Consultation
Community Grants Program Guidelines
Community Picnic Area – Use of
Correspondence Acknowledgment
Councillors Fees – Non Payment or Reduction
Dividing Fences
Driveways, Footpaths and Kerb and Gutter
Construction
Donations
Dual Occupancy
Fence Height
Final Notices
Flood Prone Land – Finished Floor Levels
Flower Sellers
Foreshore Building Alignment
Freedom of Collection and Access (Library Material)
Golf Course – Pensioner Concessions
Industrial Areas
Investments
Kerb Side Numbering
Local Approvals Policy, 1995
Legionella – Responsibilities under the Public Health
Act And Regulations 1991
Loudspeakers – Use of in Commercial and Industrial
Premises
Mobile Garbage Bins
Ombudsman
Outbuildings
Parks and Gardens
Parking Provision for New Dwellings – Residential Areas

Petitions
Plant Replacement Criterion
Professional Consulting Rooms in Residential Areas
Public – Filming
Quorum – Fixing of
Rates – Pensioner Application – Applications for
Review
Refunds
Road and Footpath Restoration
Road Pavement Design on Regional Arterial Roads
Rehabilitation Policy and Procedure
Signs – Advertising
Sponsorship
Stormwater Drainage
Street Lighting
Street Trading
Tape Recording of Council Meetings
Town Hall Rental Bond
Town Hall Rental
Trade Waste Containers
Tree Preservation Order

SECTION 2 – STATEMENT OF AFFAIRS

The Council's most recent Statement of Affairs has been prepared to 30 June 2004. This is available for inspection at Council's Administration Building.

SECTION 3 – ACCESS TO INFORMATION

Requests for access to documents under the Freedom of Information Act should be made in writing and addressed to Council's Freedom of Information Officer as follows:

Director, Corporate Services
Auburn Council
PO Box 118
Auburn NSW 1835
Telephone: (02) 9735 1222
Facsimile: (02) 9643 1120
Hours: 8.30 a.m. to 4.00 p.m., Monday to Friday

FREEDOM OF INFORMATION ACT 1989
Section 14 (1) (b) and (3)
SUMMARY OF AFFAIRS
of the
BANKSTOWN CITY COUNCIL

SECTION 1 – POLICY DOCUMENTS

Council holds and has available for inspection various files, documents, plans, policies, practice notes, guidelines, codes and protocols including:

Access Charter

Advertising Policy

Agendas and Minutes of Council Meetings (excluding those parts of the meeting closed to the press and public in accordance with the Local Government Act 1993).

Annual Management plans, including –

- Adopted Annual Budgets
- Cityplan (Council's Strategic Planning Document)
- Rating Policy
- Revenue and Pricing Policies (including fees and charges)

Annual Reports, including audited financial statements

Attendance at Seminars and Conference

Bankstown Older Residents Strategy and Policy

Bike Plan

Biodiversity Strategy

Business Continuity Plan

Business Investment Strategy

Catchment Management Strategy

Childrens and Families Strategy

City Health Plan

Code of Conduct

Code of Council Meeting Practice

Codes and Standards for Public Health Issues

Codes for Buildings

Commercial use of Footways Policy

Communication Protocol

Community Events Policy

Community Safety Strategy

Contaminated Land Management Policy

Council files including relevant correspondence and plans relative to all Council operational and strategic functions, activities and actions

Council's Land Register of Operational and Community Land

Council Sponsorship of Local Events and Activities

Councillor returns of pecuniary interests

Cultural Plan

Dealing with Difficult Customers Policy

Development Control Plans – various

Disability Discrimination Plan

Disclosure of Information – Complaints and Objections

Environmental Policy

Electoral Funding Act returns of Candidates

Footway Mowing Policy

Grants and Donations Policy

Human Resources/Personnel Management Policies including –

- Counselling and Disciplinary Actions
- EEO
- Employee Assistance Programs
- Employee Education Policies

- Harassment
- Injury Management Plan
- Occupational Health and Safety
- Recruitment
- Redundancy
- Rehabilitation Policies and Practices
- Termination
- Use of Internet

Instrument of Delegated Authority

Investment Policy

Land Use Planning Instruments including Local Environmental Plans and Development Control Plan

Local Air Quality Management Plan

Neighbour Notification Policy

Multicultural Strategy and Policy

Older Residents Strategy and Policy

Orders and Approvals Policies

Payment of Rates by Pensioners

Plans of Management for Community Land – various

Policy for Interaction between Councillors and Staff and the Provision of Information to Councillors.

Policy for the payment of expenses and provision of facilities for Councillors

Privacy Management Plan

Protected Disclosure Policy

Public Lighting Strategy

Public Transport Improvement Plan

Rates Notices – inclusion of Additional Materials Policy

Representation by Bankrupt Lawyer/Solicitor

Results for Ordinary Elections of Council and Extraordinary elections

Road Safety Strategic Plan

Sale of Property Information Policy

Social Plan

Sponsorship Policy

Sport and Recreation Strategy

Sporting Facilities Masterplan

Stormwater Drainage and Flood Mitigation Policies

Street Tree Planting and Footpath Strategy

Telecommunications Facilities on Community Land Policy

Tree Roots in underground Sewerage Pipes

Valuation Books

Various Administrative and Procedure Policies relating to the Operation of Council.

Waste Management Strategy

Youth Crime Prevention Plan

Youth Plan

SECTION 2 – STATEMENT OF AFFAIRS

Council's Statement of Affairs is available for inspection from Council's Customer Service Centre, Upper Ground Floor, The Civic Tower, 66-72 Rickard Road, Bankstown. Documents as required by section 12 of the Local Government Act 1993 are available, either for inspection at Council's Customer Service Counter or by arrangement.

SECTION 3 – CONTACT ARRANGEMENTS

Freedom of Information requests should be made in writing and directed to:

Manager, Governance and Administration/Public Officer
 Bankstown City Council
 PO Box 8
 Bankstown NSW 1885
 Telephone: (02) 9707 9531
 Facsimile: (02) 9707 9555

Council's costs associated with the lodgement of Freedom of Information requests: \$30.00 Application fee and first hour of inspection; \$30.00 per hour thereafter. Plus photocopy costs per sheet if necessary

FREEDOM OF INFORMATION ACT 1989
Section 14 (1) (b) and (3)
SUMMARY OF AFFAIRS
of the
BLAND SHIRE COUNCIL

SECTION 1 – POLICY DOCUMENTS

The following policy documents are publicly available for inspection at Council's offices:

Code of Conduct
Code of Meeting Practice
Local Approvals Policy
Local Orders Policy
Local Disaster Plan
District Fire Plan of Operations
Policy Register
Community Directory
Section 94 Plan
Tree Preservation Order
Safe Operating Procedures
Human Resources Policy Register
Management Plan 2005/2010
Audited Annual Financial Reports 2003/2004
Auditors Reports
Statement of Affairs
Register of Investments
Local Environmental Plan 1993
Development Control Plan 1999
Annual Report – 2003/04
Register of Disclosures
Community Plan
Community Profile
Community Access Plan
Cultural Plan
Minutes of Open Council Meetings
EEO Management Plan
State of the Environment Report
Policy on the Payment of Expenses and Provision of Facilities to Councillors

Copies of these documents may be provided at a fee as adopted in the current year's Revenue Policy.

SECTION 2 – STATEMENT OF AFFAIRS

A copy of Council's most recent Statement of Affairs (as at June 30, 2005) is available for inspection or purchase from Council.

SECTION 3 – CONTACT ARRANGEMENTS

Rodney Martin
Director Corporate and Customer Services
Bland Shire Council
Council Chambers
Shire Street (PO Box 21)
West Wyalong NSW 2671
Telephone: (02) 6972 2266
Facsimile: (02) 6972 2145
Email: council@blandshire.nsw.gov.au
Website: www.blandshire.nsw.gov.au
Hours: 8.30 a.m. to 5.00 p.m.

FRANK ZAKNICH, General Manager

FREEDOM OF INFORMATION ACT 1989**Section 14 (1) (b) and (3)****SUMMARY OF AFFAIRS****of the****LIVERPOOL CITY COUNCIL****FOI Agency No. 2167****SECTION 1– POLICY DOCUMENTS**

The policy documents held by the Liverpool City Council are as follows:

Access to Documents
Alternate Dispute Resolution Policy
Business Recovery Plan
Central Library Meeting Room Policy
Children’s Services Policies (various)
Code of Conduct
Code of Meeting Practice
Community Donations Policy
Community Facilities Policies (various)
Complaints Management Policy
Conference Policy
Corporate Sponsorship Policy
Corruption Prevention Policy
Councillors Access to Information and Their Interaction with Staff
Delegation of Authority Register
Development Control Plans (various)
Development of Parks and Reserves – Community Consultation
Disability Action Plan
Fees and Charges
Fencing – Public Reserve
General Advertising Policy
Homelessness Policy
Human Resources Policies (Various)
Internal Investigations Policy
Internal Reporting Policy
Internet Policy
Language Aid Policy
Library Display and Exhibitions Policy
Library Membership Policy
Liverpool City Events and Festivals Policy
Liverpool Local Environment Plan 1997
Liverpool Social Plan
Management Plan
Media Policy
Mobile Phone Policy
Motor Vehicle Management Policy
Occupational Health and Safety Policy
One 4 All Policy
Payment of Expenses and Provision of Facilities to Councillors
Playground Equipment
Policy and Procedure Development Policy
Public Access Internet Policy
Purchase of Computer Equipment by Staff
Privacy Management Plan
Procurement Manual
Service and Communication Policy
Youth Policy

SECTION 2– STATEMENT OF AFFAIRS

A Statement of Affairs for the Liverpool City Council (as required under the Freedom of Information Act) is dated July 2005 and is available from the Public Officer, Liverpool City Council at no cost or by visiting Council's website www.liverpool.nsw.gov.au.

SECTION 3– CONTACT ARRANGEMENTS

Members of the public who wish to inspect the policy documents of the Liverpool City Council as outlined previously, or any other document as outlined in Chapter 4 Part 2 of the Local Government Act 1993, should contact:

The Public Officer
Liverpool City Council
Locked Bag 7064
Liverpool BC NSW 1871
Telephone: (02) 9821 9309
Facsimile: (02) 9821 9532
Email: d.tuxford@liverpool.nsw.gov.au

FREEDOM OF INFORMATION ACT 1989
Section 14 (1) (b) and (3)
SUMMARY OF AFFAIRS
of the
LIVERPOOL PLAINS SHIRE COUNCIL

SECTION 1 – POLICY DOCUMENTS

Subject to the Freedom of Information Act, 1989, Liverpool Plains Shire Council holds the following documents which may be accessed for information:

A – Governance and Corporate Policies

Code of Meeting Practice
Equal Employment Opportunity
Harassment in the Workplace
Employee Grievance/Disputes
Bullying in the Workplace
Disciplinary Procedures
Code of Conduct
Secondary Employment
Internal Reporting
Employee Assistance Program
HIV/AIDS
Disposal of Surplus Equipment/Scrap and Low Assets
Donations
Training Policy
Approved Students Educational/Training Institutes
Employee Leave Balances
Drugs, Alcohol and Medication in the Workplace
Working in Hot Conditions, Skin Cancer and Employee Clothing
Safety Helmet, Footwear and Eye Protection
Passive Smoking Policy
Incident and Accident Reporting and Investigation
Code of Dress
Occupational Rehabilitation
Payment of Expenses and Provision of facilities to Councillors
Staff Travelling Expenses
Customer Service and Complaints Handling
Civil Emergency Leave
Volunteers Working on Council Worksites
Suspension of Driver's Licence
Damage, Loss/Theft of Personal Property or Personal Effects
Child Protection
Communications Strategy
Investments
Risk Management
Internet, E-mail and Web Browsing
Computer Equipment and Software
Contract Staff – Private Use of Vehicle
Non-contract Staff – Private Use of Vehicle
Occupational Health & Safety Code
Human Resources Manual
Hall Management
Rating Contribution for CWA Branch Halls
Local Film Policy

B – Infrastructure & Technical Policies

Banner Advertising
Cemeteries – Quirindi and Villages

Guidelines for Development and Subdivision Works
Naming of Council Assets
Footpath Policy
Vehicle Crossings
Playground Policy
Plant Policy
Dust Suppression Policy
Ramps and Gates on Public Roads
Liquid Trade Waste
Acceptance of Septic Tank Waste

C – Environment and Community Services Policies

Village Development Program
Structures on Footpaths and Council Land
Water Supply – Rural Dwellings
Electricity Supply to Rural Subdivisions
Dwelling Relocation
Library Internet use
Temporary Occupation
Sustainable Development
Footpath Dining
Notification of Adjoining Landowners Policy
Property Leasing Policy
Risk management Policy
Section 94 Contributions
Small Feedlots Policy
Stock on Public Roads & Public Places Policy
Swimming Pool Fencing Policy
Tree Preservation Order
Work on Private Property Policy
Building Alignment – Town of Quirindi
Scare Gun Policy
Noxious Weed Control
Payment of Fees Childcare Centre
Bonds and Guarantees
Retailing in the Shire
Building Setbacks
Street Entertainment & Busking
Dog Noise

D – Other

Advertising Code
Annual Report
Auditors Report
Building Application / Approval Records
Building Certificate Records
Building Line Policy
Bushfire and Emergency Manuals
Business Papers
Competitive Neutrality Complaints Management Policy
Committee Structure
Council & Committee Meeting Register
Debt Recovery Policy
Delegations of Authority Register
Development Application / Consent Records
Development Control Plan Quirindi Township 1991
Development Policy / Council Profile
Disaster Recovery Plan
Disclosures Register

Hiring of Council Facilities Policy
Investment Register
LEMP Quirindi Garbage Depot
Local Approvals Policy
Local Orders Policy
Minutes of Committee Meetings
Minutes of Council Meetings
Personal and Privacy Information Act.

SECTION 2 – STATEMENT OF AFFAIRS

A copy of the Council's most recent Statement of Affairs may be obtained by contacting the F.O.I. Co-ordinator.

The Council's Statement of Affairs provides information on the following:

- Structure and function of the Council;
- Public Access to Council;
- Public participation in the decision making process.

SECTION 3 – CONTACT ARRANGEMENTS

Access to documents held by the Council may be arranged, during business hours, by contacting:

Public Officer,
PO Box 152,
Quirindi NSW 2343
Telephone: (02) 6746 1755
Facsimile: (02) 6746 3255
Email: lpsec@lpsec.nsw.gov.au
Hours: 8.30 a.m. to 5.00 p.m., Monday to Friday

FREEDOM OF INFORMATION ACT 1989**Section 14 (1) (b) and (3)****SUMMARY OF AFFAIRS****of the****MIDCOAST WATER****SECTION 1 – POLICY DOCUMENTS**

The following documents are available at Council's Customer Service Offices at 26 Muldoon Street, Taree and 16 Breese Parade, Forster for inspection.

MidCoast Water (MCW) holds the following policies and procedures that may be accessed for information.

General Policies and Documents

| | |
|-------|---|
| 13170 | Code of Conduct |
| 13176 | Code of Meeting Practice |
| 11219 | Councillors and Chairpersons fees |
| 12833 | Information Security Policy |
| 12899 | Privacy Code of Practice |
| 13174 | Accommodation and Expenses Policy |
| 13177 | Child Protection Policy |
| 13178 | Connection of Properties to Council's Sewer Systems |
| 13182 | Internal Reporting Policy |
| 13184 | Complaints Management Policy |
| 13185 | Communications Policy |
| 13187 | Sponsorship Policy |
| 13190 | Protected Disclosures Policy |
| 13192 | Rural Residential Sewerage |
| 13735 | Sexual harassment Complaints Procedure |
| 14010 | Video Surveillance |
| 14081 | Building over or adjacent to Watermains, Sewers and Sewerage Rising Mains |
| 14082 | Discharge of Liquid Trade Waste into Council Sewers |
| 18832 | Equivalent Tenement Policy (April 2002) |
| 20683 | Quality Control Policy |
| 22871 | Motor Vehicle Policy. |
| 30351 | Consultant Engagement Practice |
| 59562 | Safety Management Plan |
| 88257 | Statement of Business Ethics |

Employment Related Policies

| | |
|-------|---|
| 13110 | Job Sharing |
| 13111 | Certificate of Service and References |
| 13115 | Drugs and Alcohol |
| 13146 | Smoke-free Working Environment |
| 13147 | Sick Leave without Pay |
| 13148 | Long Service Leave |
| 13149 | Sick Leave |
| 13152 | Annual Leave |
| 13155 | Paid Work Outside Council |
| 13156 | Leave Without Pay |
| 13161 | Leave for Civil Emergencies |
| 13163 | Disciplinary Action |
| 13327 | Personal Files |
| 13329 | Induction of New Employees |
| 13334 | Compulsory Training |
| 13335 | Apprentice, Trainee and Government Training |
| 13336 | Vacancy Review |
| 13337 | Selection Criteria |

| | |
|-------|-----------------------------------|
| 13369 | Selection Panel |
| 13371 | Advertising Vacancies |
| 13299 | Carers Leave |
| 13305 | Part-Time Employment |
| 13309 | Casual Employment |
| 13310 | Temporary Employment |
| 13322 | Fixed-Term Employment |
| 13323 | Remuneration |
| 13324 | Dispute and Grievance Resolution |
| 13399 | Education Assistance |
| 13409 | Equal Employment Opportunity |
| 13425 | Rostered Days Off |
| 13427 | Corporate Card Policy |
| 13428 | Private Use of Motor Vehicles |
| 13433 | Protective Clothing |
| 13435 | Recruitment |
| 13491 | Electronic Communication |
| 13520 | Termination of Employment |
| 13733 | Work Experience |
| 13736 | Workers Compensation |
| 13180 | Employment of Senior Staff policy |
| 13429 | Employee Assistance Program |
| 13158 | Military Leave policy |
| 13186 | Return to work program |

Publication and Other Documents

Manning District Water Supply Scheme Annual Strategic Business

Corporate/Management/Financial Plans

Annual Reports

Quarterly Industry Updates

Industry Accreditation Scheme (April 2002) (#18712)

Submission to the Cabinet Committee on Plumbing Reforms (April 2002)

Water Week Newspaper Supplements – as created

Water Wise Promotional Brochures and Pamphlets – as created

Management Plan 2005/2008 (#90116)

Financial Statements and Auditors Report to 30 June 2004

Business Papers and Minutes of Council Meetings

Enterprise Agreement (# 57891)

Submissions for Annual Awards (e.g. RH Dougherty)

MidCoast Water Contractors Programme (#41669)

MidCoast Water Safety Manual (#29838)

Working in Confined Spaces Training Manual (#31803)

Submission to Ipart on proposed DLWC bulk water pricing (#13179)

Annual report 97/98 on partnerships co-operatives and other joint ventures to which council have been a party.

Review of Environmental Factors (REF):

Environmental Impact Statements (EIS)

Statement of Environmental Effects (SEE)

Sewerage Code of Australia – (refers to standards for sewerage mains)

MidCoast Water Supplement to the Sewerage Code of Australia (defines local MCW amendments to the Code)

Water Supply Code of Australia – (refers to standards for water supply mains)

MidCoast Water Supplement to the Water Supply Code of Australia (defines local MCW amendments to the Code)

Special Project Newsletters – (as created)

Developer Charges Consultation Fees

Small Village Consultation Process

Fraud and Corruption Management Plan

MidCoast Water Procedures Manual –

All Councils' Procedure Manuals are concerned with internal management functions, and can be located on Council's electronic document management system under public folders/procedures. All procedures are reviewed on a 12 monthly basis and any changes made.

Planning related documents are prepared for various projects prior to their approval to proceed by MidCoast Water and to comply with State Planning Legislation.

SECTION 2 – STATEMENT OF AFFAIRS

A Copy of Council's most recent Statement of Affairs can be obtained by contacting the Public Officer, MidCoast Water. MidCoast Water is constituted under the Local Government Act 1993, the General Structure of Council is as follows, and the Annual Report describes the functions, structure and objectives of MidCoast Water which was adopted at its meeting on 15 March, 2005 in accordance with section 332 of the Local Government Act 1993:

Elected Council Representatives
General Manager
Council Organisation

SECTION 3 – CONTACT ARRANGEMENTS

The Public Officer
MidCoast County Council
26 Muldoon Street
PO Box 671
Taree NSW 2430
Telephone: (02) 6592 4805
Hours: 8.30 a.m. to 5.00 p.m., Monday to Friday

FREEDOM OF INFORMATION ACT 1989**Section 14 (1) (b) and (3)****SUMMARY OF AFFAIRS****of the****ORANGE CITY COUNCIL****FOI Agency No. 2192****SECTION 1 - POLICY DOCUMENTS** (available for public inspection)

- Access for People with Disabilities
- Accrued Leave
- Ageing and Disability Funding
- Ageing and Disabilities Services - Development and Provision
- Ageing and Disability Services, HACC Service Standards Policies and Procedures Manual
- Alcohol & Drug Free Workplace
- Annual Leave
- Banners in CBD
- Best Practice – Gathering Information
- Bin Exchange Policy
- Botanic Gardens – Exclusive Use
- Building over and/or adjacent to sewers
- Cabonne Shire Residents - Water Supply
- Carers Leave
- Carers Leave – Birth of a Child
- Casual Employment
- Certificates of Service and References
- Chemical Safety
- Childrens Services (Policies Procedures and Safety Guidelines)
- Civic Emergencies Leave
- Clothing Recycling Bins in Public Places
- Code of Conduct
- Community Consultation
- Community Communication Strategies for Development Proposals
- Community Services - Planning and Development
- Competitive Neutrality Complaints
- Concrete Footpath Charges
- Construction Sites - Time of Work
- Construction Zones
- Contaminated Lands
- Contaminated Material – Agreement for Testing, Treatment and Disposal
- Council Investments
- Council's Pricing Policy
- Councillors - Payment of Expenses and Provision of Facilities
- Customer Service Guarantee
- Decisions - Regional Traffic Committee
- Delegations/Sub-Delegations to Mayor and General Manager
- Development Activity - Public Notice
- Development Control Plan and Codes within the Development and Technical Services Divisions
- Directional Signs Policy to Include Churches
- Disciplinary Policy
- Driveways – Alterations and Maintenance
- EEO Grievance Policy
- Email Policy
- Equal Employment Opportunity
- Exhibitions - Regional Gallery
- Eye Protection
- Family Day Care
- Family Day Care Caregivers

- Family Leave
- Fixed Term Employment
- Food Premises - National Code for the Construction and Fitout of
- Footpath Maintenance
- Gallery - Acquisitions
- Gallery - Art Rental Scheme
- Gallery - Charging for Exhibitions
- Gallery - Exhibitions
- Gallery - Usage for Commercial Project Ventures
- Hand-Held Computer and PDA (Personal Digital Assistant)
- Hearing Protection Policy
- HIV/AIDS in the Workplace
- Internet Policy
- Internet Public Use Policy
- Itinerant Retailers
- Job Sharing
- Kerb and Gutter Charges to Adjoining Owners
- Land Sales
- Leave Without Pay
- Local Approvals Policy
- Long Service Leave
- Lost Property
- Lucknow and Spring Hill - Connections to Sewerage System from Outside Village Boundary
- Manual Handling
- Medical Services
- Meeting Practice Code
- Microcomputer Usage
- Military Leave
- Neighbourhood Street Christmas Parties
- Noise Control
- Non-English Speaking Services
- Notebook Policy
- Noxious Weeds
- Olympic Pool - Admission Charges
- Paid Work Outside Council
- Parental Leave
- Parking - Off Street Provisions
- Parks, Recreational Areas and Sportsgrounds – Signs as Remote Supervision
- Part-Time Employment
- Payment of Employees
- Personnel File
- Private Work Orders
- Private Works on Roadways
- Protected Disclosures Act 1994
- Public Art
- Rates - Scout and Girl Guide Association
- Rates and Charges - Recovery Action
- Reflectorised Street Numbering
- Rehabilitation
- Remuneration
- Removable Storage Device Access
- Residential Services
- Risk Management & Insurance
- Roads and Traffic Authority Drives Database Access
- Safety
- Safety Helmet
- Salary System
- Sale of Council Property and Carparking
- Sediment and Erosion Control
- Shopping Trolleys and Articles Abandoned
- Sick Leave (Sick Leave Without Pay)

- Smoking - Prohibition in Workplace and Hired Venues
- Sponsorships with Economic Development Justification
- Street Furniture
- Temporary Employment
- Theatre and Function Centre - Free Use of
- Theatre Objectives
- Theatre Technical Services - Provision of Estimates
- Training, Education and Development
- Tree Planting in Rural Areas
- Trees & Tree Roots
- Trees - Park Planting
- Trees - Street Planting
- UV Policy for Outdoor Workers
- Volunteer Worker Policy
- Water Service and Charging Policy
 - Cabonne Shire Water Users
 - Fire Services
 - Kidney Dialysis
 - Multiple Dwelling Developments
 - Multiple Meter Properties
 - Private Water Schemes
 - Reduction in Account Due to Leakage
 - Sale of Water
 - Single Residential Dwellings
 - Testing of Meters
 - Water Meter Boxes – Ownership and Responsibility
 - Water Service Downsizing
 - Water Service & Charging (Water Services)
 - Debt Collection – User Pays Water
- Water Supply – Rural Connections
- Whiteway Lighting
- Work Experience
- Workplace Display Material
- Workplace Grievance

OTHER DOCUMENTS AVAILABLE FOR PUBLIC INSPECTION

- Orange Local Environmental Plan 2000
- Development Control Plan 2004
- Orange Development Control Plan 1/99 - Exempt & Complying Development
- Development Control Plan 2/99 - Ploughman's Valley
- Development Control Plan - Development in the vicinity of Perc Griffith Way
- Development Contribution Plan 1999
- Orange Urban Release Strategy
- Business Centres Development Strategy
- Local Disaster Plan
- State of the Environment Report
- Airport Emergency Plan
- Bushfire Operation Plan
- Recruitment Selection Procedures and Grievance Procedures
- Management Plan 2005/2008
- Waste Management Plan
- Local Order Policy - for the Keeping of Domestic Animals
- Minutes of Committee Meetings
- Minutes of Council Meetings
- Plans of Management for Community Land

Formally Adopted

- Spring Street Children's Centre
- Yarrawong Children's Centre
- Courallie Park (incorporating the Children's Centre)
- Orange Function Centre

- Lake Canobolas Kiosk and Lake Canobolas Park (incorporating the Canobolas Scout Camp)
- Car parks in the central business district of Orange
- Gosling Creek Reservoir
- Spring Creek Reservoir
- Local and Neighbourhood Parks
- Rural Parks in the City of Orange

Additional Documents

- Annual Report
- Auditors Report
- Community Plan
- Social Plan
- Disclosures Register
- Safety Plan
- Land Register
- Investments Register
- Building Certificate Records
- Building Application/Approvals Records
- Development Application/Consent Records

SECTION 2 – STATEMENT OF AFFAIRS

The most recent Statement of Affairs for Orange City Council is dated 15 August 2005.

SECTION 3 – CONTACT ARRANGEMENTS

Acting General Manager
Mr Michael Ryan
Orange City Council
PO Box 35
Orange NSW 2800
Telephone: (02) 6393 8000
Facsimile: (02) 6393 8199

OR

Public Officer
Mrs Michelle Catlin
Orange City Council
PO Box 35
Orange NSW 2800
Telephone: (02) 6393 8000
Facsimile: (02) 6393 8199

FREEDOM OF INFORMATION ACT 1989

Section 14 (1) (b) and (3)

SUMMARY OF AFFAIRS

of the

TWEED SHIRE COUNCIL

SECTION 1 – POLICY DOCUMENTS

The following Policy Documents are held by Council:

- (a) Annual Financial Reports
- (b) Annual Report
- (c) Auditor's Report
- (d) Building Applications – notification policy
- (e) Building Line Policy
- (f) Business Papers for Council and Committee meetings (but not including business papers for matters considered when a meeting is closed to the public)
- (g) Codes/Policies/Manuals
 - Tree Preservation Order
 - Landscape Manual
 - Terranora Strategic Planning Interim Statement
 - Rural Planning Policy Review
 - Other Planning Policies
- (h) Council's Code of Conduct
- (i) Council's Code of Meeting Practice
- (j) Council's Policy concerning the Payment of Expenses incurred by, and the Provision of Facilities to Administrators.
- (k) Council's Policies on Child Protection.
- (l) Development Control Plans
 - No. 1 Terranora Village
 - No. 2 Site and Access Parking Code
 - No. 3 Tweed Heads South/Banora Point West
 - No. 5 Development of Flood Liable Land
 - No. 6 Multi-Dwelling Housing
 - No. 8 Coastal Erosion (Draft)
 - No. 9 West Kingscliff
 - No. 10 Land Liable for Water Levy
 - No. 11 South Kingscliff
 - No. 14 West Murwillumbah
 - No. 15 Advertising Structures
 - No. 16 Subdivisions Manual
 - No. 17 Cobaki Lakes
 - No. 18 Tweed Heads
 - No. 19 Keith Compton Drive, Tweed Heads
 - No. 20 Black Rocks (Draft)
 - No. 21 Sea Ranch
 - No. 23 Martinelli and Bione Avenue, Banora Point (Draft)
 - No. 24 Fraser Drive, Banora Point
 - No. 25 Biting Midge and Mosquito Control
 - No. 26 Child Care Centres
 - No. 28 Marana Park, Bilambil Heights
 - No. 31 Brothels
 - No. 32 Peter Street (South) Residential Development Controls
 - No. 38 Seabreeze Estate, Pottsville
 - No. 39 Energy Smart Homes Policy
 - No. 40 Exempt and Complying Development
 - No. 41 Stormwater Runoff and Drainage (Draft – not adopted)
 - No. 42 Public Notification Policy

- No. 43 Kingscliff
- No. 44 Dual Occupancy Controls
- No. 45 Socio-Economic Impact Assessment
- No.47 Cut and Fill on Residential Land
- No. 48 Tweed Coast Building Heights
- No. 51 Tweed Coast Strategy
- No. 52 Planning Controls Friday Island, Bogangar
- (m) Disaster Plan
- (n) Draft Section 94 Contribution Plans
- (o) EEO Management Plan
- (p) Emergency Management Plan
- (q) Fence Policy
- (r) General Policy Document
- (s) General Technical Reports on Water Supply and Sewerage, Planning, Design and Operations
- (t) Guidelines for the Submission of Reports on Contaminated Land 1992
- (u) Heights of Building Map
- (v) Human Resources Management – Policy and Procedures Manual
- (w) Landuse Guidelines for Acid Sulphate Soils
- (x) Local Environmental Plan Amendments
- (y) Lower Tweed River Management Plan
- (z) Management Plan, including Financial Management Plan
- (zz) Minutes of Council Meetings
- (aa) Plans of Management for Community Land
- (bb) Register of Delegations
- (cc) Register of Investments
- (dd) Residential Development Strategy
- (ee) Residential Development Strategy (Amendments)
- (ff) Returns of the Interests of Councillors, Designated Persons and Delegates
- (gg) Section 94 Contribution Plans
 - No. 1 – Version 6 Banora Point West/Tweed Heads South – Open Space Contributions
 - No. 2 – Version 3.2 South Tweed Heads – Master Plan Drainage
 - No. 3 – Version 2 Banora Point West/Tweed Heads South – Community Facilities
 - No. 4 – Version 3.2 Tweed Road Contribution Plan
 - No. 5 – Version 2.1 Open Space Contribution
 - No. 6 – Version 1.1 Street Tree Planting in Residential Areas
 - No. 7 – Version 1.1 West Kingscliff
 - No. 10 – Cobaki Lakes Public Open Space and Community Facilities
 - No. 11 – Version 1.0 Library Facilities
 - No. 12 – Version 1.0 Bus Shelters
 - No. 13 – Version 1.0 Cemetery/Crematorium Facilities at Eviron Road, Duranbah
 - No. 14 – Version 1.0 Rural Road Upgrading, Mebbin Springs
 - No. 15 – Version 1.0 Developer Contributions for Community Facilities
 - No. 16 – Version 1.0 Emergency Facilities (Surf Lifesaving)
 - No. 18 – Version 1.0 Council Administration Offices and Technical Support Facilities
 - No. 19 – Version 1.0 Kings Beach / Kings Forest
 - No. 20 – Version 1.0 Public Open Space at Seabreeze Estate
 - No. 21 – Version 1.0 Terranora Village Estate
 - No. 22 – Version 1.0 Cycleways
 - No. 23 – Version 1.0 Off site Parking
 - No. 26 – Version 1.0 Regional Open Space
- (hh) State of the Environment Report
- (ii) Tweed Local Environment Plan 2000
- (jj) Tweed Local Environment Plan No. 24
- (kk) Tweed Valley Flood Studies

SECTION 2 – STATEMENT OF AFFAIRS

Council has completed its Statement of Affairs and is available upon request.

SECTION 3 – ENQUIRIES AND APPLICATIONS

Enquiries, requests and formal Freedom of Information applications should be directed to:

Governance Officer/Public Officer
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484

It is suggested that initial contact be made with the Governance Officer prior to lodging a formal application to ascertain whether a formal application is needed and to ensure that the documents are available or can be made available when required.

FREEDOM OF INFORMATION ACT 1989
Section 14 (1) (b) and (3)
SUMMARY OF AFFAIRS
of the
UPPER MACQUARIE COUNTY COUNCIL

SECTION 1 – POLICY DOCUMENTS

Upper Macquarie County Council holds the following documents available:

- Annual Report
 - Performance of Principal Activities
 - State of Environment Report
 - Condition of Works Program
 - Equal Employment Opportunity Plan
- Management Plan
 - Statement of Principal Activities and Services Provided
 - Capital Works Program
 - Asset Replacement and Sales Program
 - Human Resource Activities
 - Activities of Business/Commercial Nature
 - Revenue Policy
 - Detailed Estimates of Income and Expenditure
 - Summary of Estimates
 - Three Year Financial Plan
- Register of Disclosures
- Minutes of Council and Committee Meetings, (but restricted in the case of any meeting or part of a meeting that is closed to the public)
- Business Papers of Council and Committee Meetings (not including Business Papers for matters considered when a meeting is closed to public)
- Policy Register

SECTION 2 – STATEMENT OF AFFAIRS

The Upper Macquarie Council Statement of Affairs as at 30 June 2005 is available for inspection at Council's Office, 7 Lee Street, Kelso NSW 2795. Please phone (02) 6333 1375 to make appointment.

SECTION 3 – CONTACT ARRANGEMENTS

Requests for information under the Freedom of Information Act, 1989 should be made in writing and addressed to:

The General Manager
Upper Macquarie County Council
PO Box 703
Bathurst NSW 2795

The Public Officer for Upper Macquarie County Council is:

Mr Brian Dwyer
General Manager
Upper Macquarie County Council
PO Box 703
Bathurst NSW 2795

FREEDOM OF INFORMATION ACT 1989
Section 14 (1) (b) and (3)
SUMMARY OF AFFAIRS
of the
WALCHA COUNCIL

SECTION 1 – POLICY DOCUMENTS

The Walcha Council has developed policy documents in relation to:

- Code of Conduct.
- Code of Meeting Practice.
- Corporate Plan.
- Delegations of Authority Register.
- Disaster Plan(s).
- EEO Management Plan.
- Debt Recovery Policy.
- Staff Training Code and Policy
- Occupational Health and Safety Policy
- Occupational Health and Safety Manual Handling Policy.
- Occupational Health and Safety Noise Policy.
- Occupational Health and Safety Injury Management Policy.
- Occupational Health and Safety Staff Consultation Policy.
- Aids and Local Government Policy.
- Smoke Free Working Environment Policy.
- Rehabilitation Policy and Procedures.
- Walcha Draft Development Control Plan.
- Interim Development Order No. – Shire of Walcha.
- Draft Walcha Local Environmental Plan.
- Section 94 Contribution Plan – Rural Roads.
- Expenses and Facilities Policy.
- Financial Management Plan.
- Local Approvals Policy.
- Management Plan.
- Minutes of Committee Meetings.
- Minutes of Council Meetings.
- Plan of Management – Community Land.
- Policy Register.
- Fees and Charges Policy.
- Recycling Policy.
- State of the Environment Report.
- Subdivision Code.
- Tree Preservation Orders.
- Adjoining Owners Notification Policy.
- Building Line Policy.
- Bush Fire and Emergency Manuals.
- Investments Policy.
- Private Use of Council Vehicles Policy.
- Privacy Plan of Management.

The following records or documents are available to the public:

- Annual Reports.
- Auditors' Reports.
- Business Papers.
- Disclosures Register.
- Building Application/Approval Records.
- Development Application/Consent Records.

SECTION 2 – STATEMENT OF AFFAIRS

The Walcha Council's Statement of Affairs may be inspected at the Council Chambers during normal business hours.

SECTION 3 – CONTACT ARRANGEMENTS

Requests for access to documents under the FOI Act should be made in accordance with that Act. FOI requests and requests for access to, and amendment of other records should be made to:

The Public Officer,
Walcha Council,
Council Chambers,
2W Hamilton Street,
Walcha NSW 2354

Certain Council's documents may only be inspected under the supervision of Council Staff.

JACK O'HARA,
General Manager

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