



# Government Gazette

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NEW SOUTH WALES

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## LEGISLATION

### Proclamations



New South Wales

## Proclamation

under the

Roman Catholic Church Communities' Lands Act 1942

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 (2) of the *Roman Catholic Church Communities' Lands Act 1942*, do, by this my Proclamation, add the canonical name "The Congregation of the Dominican Sisters of Malta in New South Wales." to Column 1 of Schedule 2 to that Act, and add to Column 2 of that Schedule opposite that name the corporate name "The Congregation of the Dominican Sisters of Malta in New South Wales."

Signed and sealed at Sydney, this 22nd day of August 2007.

By Her Excellency's Command,

JOHN HATZISTERGOS, M.L.C.,  
Attorney General

L.S.

GOD SAVE THE QUEEN!

### Explanatory note

Schedule 2 to the *Roman Catholic Church Communities' Lands Act 1942* contains canonical and corporate names of certain Roman Catholic orders, congregations, communities, associations and societies. By virtue of being listed in that Schedule, each organisation is a community as defined in the Act, and by virtue of that Act, the trustees of the community land for each community become a body corporate and acquire the powers conferred by the Act in relation to property held by them.

The object of this Proclamation is to add The Congregation of the Dominican Sisters of Malta in New South Wales and the corporate name for that community to Schedule 2 to the Act.



New South Wales

## Commencement Proclamation

under the

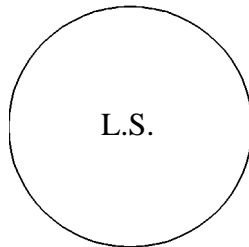
Statute Law (Miscellaneous Provisions) Act 2007 No 27

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of the *Statute Law (Miscellaneous Provisions) Act 2007*, do, by this my Proclamation, appoint 1 September 2007 as the day on which Schedules 1.5, 1.11, 1.48 and 1.49 to that Act commence.

Signed and sealed at Sydney, this 29th day of August 2007.

By His Excellency's Command,



ANTHONY KELLY, M.L.C.,  
Minister for Lands

GOD SAVE THE QUEEN!

### Explanatory note

The object of this Proclamation is to commence the provisions of the *Statute Law (Miscellaneous Provisions) Act 2007* that amend the *Community Land Development Act 1989*, the *Conveyancing Act 1919*, the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*. These amendments relate to the lodgement of certain forms with the Registrar-General.

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# Regulations

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New South Wales

## Agricultural Industry Services (Riverina Citrus) Regulation 2007

under the

Agricultural Industry Services Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council and the concurrence of the Premier, has made the following Regulation under the *Agricultural Industry Services Act 1998*.

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

### Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Agricultural Industry Services (Riverina Citrus) Regulation 2002*. This Regulation will be repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation establishes Riverina Citrus as an agricultural industry services committee. The Committee is established for growers of citrus fruit within the Murrumbidgee Irrigation Area (the *MIA*), other than those whose citrus fruit orchards have a total area of less than 2 hectares.

The Committee is constituted for the following agricultural industry services in relation to the MIA:

- (a) to contribute to the funding of fruit fly eradication programs,
- (b) to facilitate the adoption of orchard management practices aimed at improving citrus fruit production,
- (c) to obtain and disseminate information relevant to the citrus fruit industry, including the development of a forecasting service for production,
- (d) to contribute to promotional activities aimed at increasing the sale of citrus fruit,
- (e) to facilitate the development of new and existing export markets for citrus fruit,
- (f) to provide for communication between growers of citrus fruit in the MIA and government departments and agencies, public authorities and the general public.

Agricultural Industry Services (Riverina Citrus) Regulation 2007

Explanatory note

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The Committee is to consist of 9 members, of whom 3 are to be elected from the Northern District of the MIA, 3 are to be elected from the Southern District of the MIA, and 3 are to be appointed by the elected members.

This Regulation is made under the *Agricultural Industry Services Act 1998*, including sections 5, 6 and 51 (the general regulation-making power).

## Agricultural Industry Services (Riverina Citrus) Regulation 2007

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Clause 1	Agricultural Industry Services (Riverina Citrus) Regulation 2007
Part 1	Preliminary

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## Agricultural Industry Services (Riverina Citrus) Regulation 2007

under the

Agricultural Industry Services Act 1998

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Agricultural Industry Services (Riverina Citrus) Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Agricultural Industry Services (Riverina Citrus) Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

***citrus fruit*** means oranges (other than Seville oranges), grapefruit, lemons and mandarins.

***Committee*** means the agricultural industry services committee established by this Regulation under the corporate name of Riverina Citrus.

***Murrumbidgee Irrigation Area (MIA)*** means the area constituted by the local government areas of Carrathool, Griffith, Leeton, Murrumbidgee and Narrandera.

***Northern District*** means that part of the MIA constituted by the local government areas of Carrathool and Griffith.

***Southern District*** means that part of the MIA constituted by the local government areas of Leeton, Murrumbidgee and Narrandera.

***the Act*** means the *Agricultural Industry Services Act 1998*.

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

Agricultural Industry Services (Riverina Citrus) Regulation 2007	Clause 4
Preliminary	Part 1

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#### **4 Saving**

Any act, matter or thing that, immediately before the repeal of the *Agricultural Industry Services (Riverina Citrus) Regulation 2002*, had effect under (or was done for the purposes of) that Regulation continues to have effect under (or is taken to have been done for the purposes of) this Regulation.

Clause 5	Agricultural Industry Services (Riverina Citrus) Regulation 2007
Part 2	Establishment and functions of Committee

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## **Part 2 Establishment and functions of Committee**

### **5 Establishment of Committee**

- (1) There is established by this Regulation, under section 5 (1) (a) of the Act, an agricultural industry services committee with the corporate name of Riverina Citrus.
- (2) The Committee is a continuation of the Committee established by the *Agricultural Industry Services (Riverina Citrus) Regulation 2002*.

### **6 Class of primary producers for which Committee is constituted**

The class of primary producers for which the Committee is constituted is growers of citrus fruit, other than those whose citrus fruit orchards have a total area of less than 2 hectares.

### **7 Area of operations**

- (1) The area of operations for which the Committee is constituted is the Murrumbidgee Irrigation Area (the *MIA*).
- (2) The Committee's area of operations comprises 2 electoral districts:
  - (a) the Northern District, and
  - (b) the Southern District.

### **8 Commodities for which Committee is constituted**

The commodity for which the Committee is established is citrus fruit.

### **9 Agricultural industry services of Committee**

The agricultural industry services for which the Committee is established are as follows:

- (a) to contribute to the funding of fruit fly eradication programs in the MIA,
- (b) to facilitate, through research and technology transfer, the adoption of orchard management practices aimed at improving citrus fruit production within the MIA,
- (c) to obtain, analyse and disseminate information relevant to the citrus fruit industry, including the development of a forecasting service for citrus fruit production within the MIA,
- (d) to initiate, co-ordinate and contribute to promotional activities aimed at increasing the sale of citrus fruit grown in the MIA,
- (e) to facilitate the development of new and existing export markets for citrus fruit grown in the MIA,



Agricultural Industry Services (Riverina Citrus) Regulation 2007	Clause 9
Establishment and functions of Committee	Part 2

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- (f) to provide a point of access for communication between growers of citrus fruit in the MIA and:
  - (i) Commonwealth government departments and public authorities, and
  - (ii) State government agencies and public authorities, and
  - (iii) the general public.

- Clause 10      Agricultural Industry Services (Riverina Citrus) Regulation 2007
- Part 3          Other provisions relating to Committee
- 

## **Part 3    Other provisions relating to Committee**

### **10    Membership of Committee**

- (1) The Committee is to consist of 9 members, of whom:
  - (a) 3 are to be elected by such of the Committee's constituents as have the majority of their citrus fruit production in the Northern District, and
  - (b) 3 are to be elected by such of the Committee's constituents as have the majority of their citrus fruit production in the Southern District, and
  - (c) 3 are to be appointed by the elected members of the Committee by notice in writing lodged with the Director-General.
- (2) As far as practicable, each of the members referred to in subclause (1) (c) is to be appointed on the basis of:
  - (a) his or her expertise in one or more of the following fields:
    - (i) marketing,
    - (ii) management,
    - (iii) finance,
    - (iv) law,
    - (v) fruit processing, and
  - (b) his or her awareness of community issues.
- (3) Each member of the Committee holds office for a period not exceeding 3 years.
- (4) The quorum for a meeting of the Committee is 5 members, of whom a majority are elected members.

### **11    Voting entitlements of constituents**

The voting entitlements of the Committee's constituents for polls and elections is one vote per constituent.

### **12    Quorum for meeting of constituents**

The quorum for a meeting of the Committee's constituents is 30 constituents.

### **13    Financial year**

The financial year of the Committee is the year ending on 30 April.



New South Wales

# Children and Young Persons (Care and Protection) Amendment Regulation 2007

under the

Children and Young Persons (Care and Protection) Act 1998

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Children and Young Persons (Care and Protection) Act 1998*.

KEVIN GREENE, M.P.,  
Minister for Community Services

## Explanatory note

The object of this Regulation is to amend the *Children and Young Persons (Care and Protection) Regulation 2000* to add the Federal Magistrates Court of Australia to the list of bodies with which the Director-General of the Department of Community Services may share information concerning the safety, welfare and well-being of children and young persons.

This Regulation is made under the *Children and Young Persons (Care and Protection) Act 1998*, including sections 248 and 264 (the general-regulation making power).

Clause 1 Children and Young Persons (Care and Protection) Amendment  
Regulation 2007

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## **Children and Young Persons (Care and Protection) Amendment Regulation 2007**

under the

Children and Young Persons (Care and Protection) Act 1998

### **1 Name of Regulation**

This Regulation is the *Children and Young Persons (Care and Protection) Amendment Regulation 2007*.

### **2 Amendment of Children and Young Persons (Care and Protection) Regulation 2000**

The *Children and Young Persons (Care and Protection) Regulation 2000* is amended by inserting after clause 7 (d):

(d1) the Federal Magistrates Court of Australia,



New South Wales

# Community Land Development Regulation 2007

under the

Community Land Development Act 1989

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Community Land Development Act 1989*.

ANTHONY KELLY, M.L.C.,  
Minister for Lands

## Explanatory note

This Regulation replaces the *Community Land Development Regulation 2000* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation provides for the following matters:

- (a) community plans, precinct plans and neighbourhood plans (Part 2),
- (b) plans relating to certain transactions, including transactions affecting community development lots, precinct development lots, neighbourhood lots, neighbourhood property, works plans and access way plans (Part 3),
- (c) development contracts and management statements (Part 4),
- (d) other matters of a minor, consequential or ancillary nature (Parts 1 and 5).

This Regulation is made under the *Community Land Development Act 1989*, including section 75 (the general regulation-making power) and the sections referred to in the Regulation.

This Regulation comprises or relates to matters of a machinery nature.

## Community Land Development Regulation 2007

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Part 1	Preliminary

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## Community Land Development Regulation 2007

under the

Community Land Development Act 1989

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Community Land Development Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Community Land Development Regulation 2000* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**administration sheet**, in relation to a plan, means the separate document, in the approved form, required to be lodged with the plan under clause 2 (1A) of Schedule 1 to the Act.

**association property lot** means a community property lot, a precinct property lot or a neighbourhood property lot.

**association property plan** means a community property plan, a precinct property plan or a neighbourhood property plan.

**detailed survey information** means all survey information required by the *Surveying Regulation 2006* to define the land in the relevant scheme.

**the Act** means the *Community Land Development Act 1989*.

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

#### 4 Application

(1) The provisions of this Regulation apply in addition to the provisions of:

- (a) Parts 3 and 5 of the *Conveyancing (General) Regulation 2003*, and
- (b) Schedules 1 and 4–10 to the *Conveyancing (General) Regulation 2003*, and



Community Land Development Regulation 2007

Clause 4

Preliminary

Part 1

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(c) the *Real Property Regulation 2003*.

- (2) The provisions of this Regulation prevail in the event of any inconsistency between them and the provisions referred to in subclause (1) (a), (b) and (c).

**Note.** This Regulation includes provisions concerning deposited plans and dealings for land the subject of a community, precinct or neighbourhood scheme. All such land is under the provisions of the *Real Property Act 1900*. The *Conveyancing Act 1919*, and the regulations under that Act, include provisions concerning the preparation and lodgment of deposited plans for land generally (including provisions requiring the payment of fees). The *Real Property Act 1900*, and the regulations under that Act, include provisions concerning the preparation and lodgment of dealings for land under the provisions of that Act (including provisions requiring the payment of fees).

Clause 5	Community Land Development Regulation 2007
Part 2	Community plans, precinct plans and neighbourhood plans

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## Part 2 Community plans, precinct plans and neighbourhood plans

### 5 Location diagrams: sections 5, 9, 13 and 18

The location diagram:

- (a) must be clearly labelled "LOCATION DIAGRAM" in the plan drawing area, and
- (b) must illustrate, at an appropriate scale, the subdivisional pattern of the scheme in a diagram that does not show dimensions, except for a distance to the nearest cross street, as required by the Registrar-General, and
- (c) must illustrate the relative positions of all main access roads and appropriate adjoining information, and
- (d) must contain a schedule on which to record subsequent subdivision and lot definition changes.

**Note.** The provisions of this clause apply in addition to the provisions of Schedule 1 to the Act, which imposes general requirements for the preparation of community, precinct and neighbourhood plans.

### 6 Detail plans: sections 5, 9, 13 and 18

- (1) Each sheet of the detail plan must be clearly labelled "DETAIL PLAN" in the plan drawing area.
- (2) The detail plan must set out the detailed survey information for all of the lots in the relevant scheme, including the association property lot.
- (3) The association property lot must be numbered "Lot 1" and all other lots on the detail plan must be numbered consecutively beginning with "Lot 2".
- (4) Each sheet of a detail plan must contain complete dimensions (including the area) of every lot.
- (5) This clause applies to any additional sheets for a detail plan in the same way as it applies to the original sheets, with the further requirement that any additional sheet must contain an additional sheet note, in the approved form, in the note column.

**Note.** The provisions of this clause apply in addition to the provisions of Schedule 1 to the Act, which imposes general requirements for the preparation of community, precinct and neighbourhood plans.

Community Land Development Regulation 2007

Clause 7

Community plans, precinct plans and neighbourhood plans

Part 2

## 7 Association property plans: sections 5, 9, 13 and 18

- (1) The plan drawing area of the association property plan must be clearly labelled, in the plan drawing area, with one of the following (as the case requires):

COMMUNITY PROPERTY PLAN  
(community property lot only)

PRECINCT PROPERTY PLAN  
(precinct property lot only)

NEIGHBOURHOOD PROPERTY PLAN  
(neighbourhood property lot only).

- (2) The association property plan must be a diagram showing all association property within the relevant scheme. Unless the Registrar-General otherwise agrees, the association property plan must comprise one sheet only.
- (3) The association property plan must include the boundaries and complete dimensions (including area and part areas) of the whole of the association property lot, but without the detailed survey information, which is to be shown on the detail plan.
- (4) The association property lot must be numbered "Lot 1" and, if it comprises more than one part, each part must be identified as part of Lot 1.
- (5) This clause applies to any replacement sheets for an association property plan in the same way as it applies to the original sheets, with the further requirement that any replacement sheet must contain a replacement sheet note, in the approved form, in the note column.

**Note.** The provisions of this clause apply in addition to the provisions of Schedule 1 to the Act, which imposes general requirements for the preparation of community, precinct and neighbourhood plans.

## 8 Schedule of unit entitlements

- (1) The schedule of unit entitlements sheet must be set out on the administration sheet in the panel provided.
- (2) The schedule of unit entitlements sheet must be clearly labelled "INITIAL SCHEDULE OF UNIT ENTITLEMENTS" or "REVISED SCHEDULE OF UNIT ENTITLEMENTS", as the case requires.
- (3) The schedule must contain 3 columns as follows:
- (a) the first column, headed "LOT", must list in numerical order the lots in the plan,

Clause 9	Community Land Development Regulation 2007
Part 2	Community plans, precinct plans and neighbourhood plans

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- (b) the second column, headed "UNIT ENTITLEMENT", must contain:
- (i) for each lot shown in the first column (other than the association property lot or any lot to be dedicated or set aside as a public reserve or drainage reserve), the value of the unit entitlement (shown as a whole number), and
  - (ii) for the association property lot, the words "COMMUNITY PROPERTY", "PRECINCT PROPERTY" or "NEIGHBOURHOOD PROPERTY", as the case requires, and
  - (iii) for any lot to be dedicated as a public reserve or drainage reserve, the words "PUBLIC RESERVE" or "DRAINAGE RESERVE", as the case requires,
- (c) the third column, headed "SUBDIVISION", must record details of subdivisions of the relevant lots as they occur.
- (4) At the end of the schedule, the first column must contain the word "TOTAL" and the second column the total value of all the unit entitlements of the individual lots.
- (5) The schedule of unit entitlements:
- (a) must include a warning statement in the approved form, and
  - (b) in relation to a community plan or a precinct plan, must include a certificate (in the approved form) of a registered valuer as referred to in clause 2 (b) of Schedule 11 to the Act, and
  - (c) must include a certificate endorsed by the surveyor by whom the plan was prepared, as required by the *Conveyancing Act 1919*.
- (6) This clause applies to any replacement schedule of unit entitlements in the same way as it applies to the original schedule, with the further requirement that any replacement sheet must contain an update note in the approved form.

**Note.** The provisions of this clause apply in addition to the provisions of Schedule 11 to the Act, which contains provisions concerning initial unit entitlements.

## 9 Administration sheet

The administration sheet for a plan:

- (a) must include all signatures and seals required by the Act, and
- (b) must bear the name of the relevant scheme, if any, and the location of the relevant scheme, and
- (c) must bear the address (including the postcode) of the relevant association for service of notices, and

Community Land Development Regulation 2007

Clause 9

Community plans, precinct plans and neighbourhood plans

Part 2

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- (d) must include evidence of approval by the relevant consent authority to the subdivision, and
  - (e) must include a certificate endorsed by the surveyor by whom the plan was prepared, as required by the *Conveyancing Act 1919*, and
  - (f) in relation to a community plan or a precinct plan, must include a certificate (in the approved form) of a registered valuer as referred to in clause 2 (b) of Schedule 11 to the Act, and
  - (g) must include the schedule of unit entitlements in the panel provided.

Clause 10 Community Land Development Regulation 2007

Part 3 Plans relating to certain transactions

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## **Part 3 Plans relating to certain transactions**

### **Division 1 Transactions affecting community development lots**

#### **10 Subdivision to create further community development lots by a community plan of subdivision: section 8**

- (1) A community plan of subdivision:
  - (a) must show only the lots subject to the subdivision, and
  - (b) must be a plan of survey in relation to the new subdivision boundaries.
- (2) Boundaries of new lots that follow the boundaries of existing lots may be compiled from the original community plan.
- (3) Lots on the additional sheets for the detail plan must be numbered consecutively beginning with the next available lot number for the relevant scheme.
- (4) Each additional sheet for the detail plan:
  - (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (5) Each replacement for the schedule of unit entitlements:
  - (a) must be labelled "INITIAL SCHEDULE OF UNIT ENTITLEMENTS", and
  - (b) must include in the first column, headed "LOT", a list of the lots being created, and
  - (c) must include in the second column, headed "UNIT ENTITLEMENT":
    - (i) for each lot being subdivided, a reference to the new lots being created, and
    - (ii) for each lot being created, its unit entitlement, and
  - (d) must include in the third column, headed "SUBDIVISION", opposite the lot or lots subdivided, a reference to the sheet of the community plan that created the new lot or lots, and

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Clause 11

Plans relating to certain transactions

Part 3

- (e) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 1 and 11 to the Act. Schedule 1 imposes general requirements for the preparation of community, precinct and neighbourhood plans and Schedule 11 contains provisions concerning initial unit entitlements. See also clauses 6 and 8 of this Regulation.

#### 11 Consolidation: section 7

- (1) Each additional sheet for the detail plan:
- (a) may be compiled from information in the community plan, unless the information is conflicting with that information or the Registrar-General requires a plan of survey, and
  - (b) must show only the lots subject to the consolidation, and
  - (c) must bear the deposited plan number of the relevant scheme, and
  - (d) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (2) Lots on the additional sheets for the detail plan must be numbered consecutively beginning with the next available lot number for the relevant scheme.
- (3) Each replacement for the schedule of unit entitlements:
- (a) must include the unit entitlement of the consolidated lot or lots as the sum of the entitlements of the lots that comprise such consolidated lot, and
  - (b) must include, against the superseded lots, a reference to the new lot, and in the "SUBDIVISION" column a reference to the sheet of the plan that shows the new consolidated parcel, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 1 and 11 to the Act. Schedule 1 imposes general requirements for the preparation of community, precinct and neighbourhood plans and Schedule 11 contains provisions concerning initial unit entitlements. See also clauses 6 and 8 of this Regulation.

#### 12 Severance: section 15

Each replacement for the schedule of unit entitlements:

- (a) must be labelled "INITIAL SCHEDULE OF UNIT ENTITLEMENTS", and

Clause 13 Community Land Development Regulation 2007

Part 3 Plans relating to certain transactions

(b) must include in the second column, headed "UNIT ENTITLEMENT", for each lot severed the words "SEVERED LOT", and

(c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 8 and 11 to the Act. Schedule 8 imposes general requirements for the severance of development lots and Schedule 11 contains provisions concerning initial unit entitlements. See also clause 8 of this Regulation.

### 13 Conversion to community property: section 14

- (1) Each replacement sheet for the community property plan:
  - (a) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on an additional sheet of the detail plan, and
  - (b) must bear the deposited plan number of the relevant scheme, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (2) The replacement sheet for the community property plan must be accompanied by an additional sheet for the detail plan showing the updated survey information for the changed boundaries which:
  - (a) may be compiled from information in the community plan, unless the information conflicts with that information or the Registrar-General requires a plan of survey, and
  - (b) must bear the deposited plan number of the relevant scheme, and
  - (c) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (3) Each replacement for the schedule of unit entitlements:
  - (a) must include, against the converted lot or lots, in the "UNIT ENTITLEMENT" column the words "CONVERTED TO LOT 1", and
  - (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (4) The additional and replacement sheets must be accompanied by an administration sheet which:
  - (a) must bear a certificate by the community association to the effect that it agrees to the schedule of unit entitlements, and



Community Land Development Regulation 2007

Clause 14

Plans relating to certain transactions

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- (b) must bear a certificate by a registered land surveyor within the meaning of the *Surveying Act 2002*, suitably amended to indicate that the replacement sheet for the community property plan was compiled, if that is the case.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 6 and 11 to the Act. Schedule 6 imposes general requirements for the conversion of development lots to association property and Schedule 11 contains provisions concerning initial unit entitlements. See also clauses 7 and 8 of this Regulation.

#### 14 Boundary adjustment plan: section 6

- (1) A plan redefining lot boundaries must be a plan of survey of the boundaries of the lots redefined (the redefined lots bearing their pre-redefinition lot numbers) and the relevant community property lot boundaries.
- (2) Other boundaries shown on the plan that have not been changed may be compiled from the community plan.
- (3) Each additional sheet for the detail plan:
  - (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the next sheet number after the last number used in the relevant scheme, and
  - (c) must include all detailed survey information for the redefined lot boundaries.
- (4) Each replacement sheet for the community property plan:
  - (a) must show the community property lot as Lot 1, together with the new extent of Lot 1, the new area of Lot 1 and details of the newly surveyed boundaries, the remaining boundaries being shown by compilation, and
  - (b) must bear the deposited plan number of the relevant scheme, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (5) The boundary adjustment plan must be accompanied by an administration sheet which:
  - (a) must bear a surveyor's certificate qualified as regards the boundaries surveyed and
  - (b) must bear a certificate in the approved form by the community association to the effect that the association accepted the redefined boundaries by an ordinary resolution attested to for the purposes of this paragraph.

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- (6) A comprehensive surveyor's report stating the reasons for the boundary adjustment, and containing such other information as may be required by the Registrar-General, is to be lodged with the plan.
  - (7) If an adjustment is made by the boundary adjustment plan that causes the position of an access way to move, an amendment must be made to the access way plan. An access way plan may be amended by lodging an amendment to the management statement under section 39 of the Act.

**Note.** The provisions of this clause apply in addition to the provisions of Schedule 1 to the Act, which impose general requirements for the preparation of community, precinct and neighbourhood plans. See also clauses 6 and 7 of this Regulation.

#### 15 Acquisition plan: section 34

- (1) An acquisition plan is to consist of a plan of subdivision registered under section 195G of the *Conveyancing Act 1919*, an additional sheet for the detail plan and:
  - (a) if the acquisition involves community property, a replacement sheet for the community property plan, or
  - (b) if the acquisition involves a community development lot, a replacement sheet for the schedule of unit entitlements.
- (2) An acquisition plan must show, as a lot or lots, only the land being acquired and should not include any residue lot.
- (3) An acquisition plan must be a plan of survey of the boundaries of the lots redefined.
- (4) Other boundaries shown on the plan that have not been changed may be compiled from the community plan.
- (5) If part of a community development lot is to be acquired, the residue of the lot that is not being acquired and that will remain in the scheme is to be shown as a whole lot in the detail plan.
- (6) Any such new lots are to be numbered consecutively beginning with the number following the last number used for the lots in the relevant community scheme.
- (7) If a replacement sheet for the community property plan is required, the replacement sheet:
  - (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced, and

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- (c) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on the additional sheet for the detail plan.
- (8) Each additional sheet for the detail plan:
- (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (9) If a replacement for the schedule of unit entitlements is required, the replacement sheet:
- (a) must be labelled “INITIAL SCHEDULE OF UNIT ENTITLEMENTS”, and
  - (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetical suffix to indicate the number of times that the sheet has been replaced.
- (10) The additional or replacement sheets, or both the additional and replacement sheets, must be accompanied by an administration sheet which must, where the schedule of unit entitlements being replaced was an initial schedule, bear a certificate by a registered valuer in the approved form.
- (11) An acquisition plan must be lodged in conjunction with a transfer of all the land being acquired, unless the Registrar-General agrees otherwise in writing.

## **Division 2 Transactions affecting precinct development lots**

### **16 Subdivision to create further precinct development lots by a precinct plan of subdivision: section 12**

- (1) The precinct plan of subdivision:
  - (a) must show only the lots subject to the subdivision, and
  - (b) must be a plan of survey in relation to the new subdivision boundaries.
- (2) Boundaries of new lots that follow the boundaries of existing lots may be compiled from the original precinct plan.
- (3) Lots on the additional sheets for the detail plan must be numbered consecutively beginning with the next available lot number for the relevant scheme.

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- (4) Each additional sheet for the detail plan:
- (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (5) Each replacement for the schedule of unit entitlements:
- (a) must be labelled "INITIAL SCHEDULE OF UNIT ENTITLEMENTS", and
  - (b) must include in the first column, headed "LOT", a list of the lots being created, and
  - (c) must include in the second column, headed "UNIT ENTITLEMENT":
    - (i) for each lot being subdivided, a reference to the new lots being created, and
    - (ii) for each lot being created, its unit entitlement, and
  - (d) must include in the third column, headed "SUBDIVISION", opposite the lot or lots subdivided, a reference to the sheet of the precinct plan that created the new lot or lots, and
  - (e) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 1 and 11 to the Act. Schedule 1 imposes general requirements for the preparation of community, precinct and neighbourhood plans and Schedule 11 contains provisions concerning initial unit entitlements. See also clauses 6 and 8 of this Regulation.

#### 17 Consolidation: section 11

- (1) Each additional sheet for the detail plan:
- (a) may be compiled from information in the precinct plan, unless the information is conflicting or the Registrar-General requires a plan of survey, and
  - (b) must show only the lots subject to the consolidation, and
  - (c) must bear the deposited plan number of the relevant scheme, and
  - (d) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (2) Lots on the additional sheets for the detail plan must be numbered consecutively beginning with the next available lot number for the relevant scheme.

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- (3) Each replacement sheet for the schedule of unit entitlements:
- (a) must include the unit entitlement of the consolidated lot or lots as the sum of the entitlements of the lots that comprise such consolidated lot, and
  - (b) must include, against the superseded lots, a reference to the new lot, and in the "SUBDIVISION" column a reference to the sheet of the plan that shows the new consolidated parcel, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 1 and 11 to the Act. Schedule 1 imposes general requirements for the preparation of community, precinct and neighbourhood plans and Schedule 11 contains provisions concerning initial unit entitlements. See also clauses 6 and 8 of this Regulation.

#### 18 Severance: section 15

Each replacement for the schedule of unit entitlements:

- (a) must be labelled "INITIAL SCHEDULE OF UNIT ENTITLEMENTS", and
- (b) must include in the second column, headed "UNIT ENTITLEMENT", for each lot severed the words "SEVERED LOT", and
- (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 8 and 11 to the Act. Schedule 8 imposes general requirements for the severance of development lots and Schedule 11 contains provisions concerning initial unit entitlements. See also clause 8 of this Regulation.

#### 19 Conversion to precinct property: section 14

- (1) Each replacement sheet for the precinct property plan:
- (a) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on an additional sheet of the detail plan, and
  - (b) must bear the deposited plan number for the relevant scheme, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

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- (2) The replacement sheet for the precinct property plan must be accompanied by an additional sheet showing the updated survey information for the changed boundaries which:
  - (a) may be compiled from information in the precinct plan, unless the information conflicts with that information or the Registrar-General requires a plan of survey, and
  - (b) must bear the deposited plan number of the relevant scheme, and
  - (c) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (3) Each replacement for the schedule of unit entitlements:
  - (a) must include, against the converted lot or lots, in the "UNIT ENTITLEMENT" column the words "CONVERTED TO LOT 1", and
  - (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (4) The additional and replacement sheets must be accompanied by an administration sheet which:
  - (a) must bear a certificate by the precinct association to the effect that it agrees to the schedule of unit entitlements, and
  - (b) must bear a certificate by a registered land surveyor within the meaning of the *Surveying Act 2002*, suitably amended to indicate that the replacement sheet for the community property plan was compiled, if that is the case.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 6 and 11 to the Act. Schedule 6 imposes general requirements for the conversion of development lots to association property and Schedule 11 contains provisions concerning initial unit entitlements. See also clauses 7 and 8 of this Regulation.

## 20 Boundary adjustment plan: section 10

- (1) A plan redefining lot boundaries must be a plan of survey of the boundaries of the lots redefined (the redefined lots bearing their pre-redefinition lot numbers) and the relevant precinct property lot boundaries.
- (2) Other boundaries shown on the plan that have not been changed may be compiled from the precinct plan.
- (3) Each additional sheet for the detail plan:
  - (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the next sheet number after the last number used in the relevant scheme, and

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- (c) must include all detailed survey information for the redefined lot boundaries.
  - (4) Each replacement sheet for the precinct property plan:
    - (a) must show the precinct property lot as Lot 1, together with the new extent of Lot 1, the new area of Lot 1 and details of the newly surveyed boundaries, the remaining boundaries being shown by compilation, and
    - (b) must bear the deposited plan number of the relevant scheme, and
    - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
  - (5) The boundary adjustment plan must be accompanied by an administration sheet, which:
    - (a) must bear a surveyor's certificate qualified as regards the boundaries surveyed, and
    - (b) must bear a certificate in the approved form by the precinct association to the effect that the association accepted the redefined boundaries by an ordinary resolution attested to for the purposes of this paragraph.
  - (6) A comprehensive surveyor's report stating the reasons for the boundary adjustment, and containing such other information as may be required by the Registrar-General, is to be lodged with the plan.
  - (7) If an adjustment is made by the boundary adjustment plan that causes the position of an access way to move, an amendment must be made to the access way plan. An access way plan may be amended by lodging an amendment to the management statement, under section 39 of the Act.

**Note.** The provisions of this clause apply in addition to the provisions of Schedule 1 to the Act, which imposes general requirements for the preparation of community, precinct and neighbourhood plans. See also clauses 6 and 7 of this Regulation.

## 21 Acquisition plan: section 34

- (1) An acquisition plan is to consist of a plan of subdivision registered under section 195G of the *Conveyancing Act 1919*, an additional sheet for the detail plan and:
  - (a) if the acquisition involves precinct property, a replacement sheet for the precinct property plan, or
  - (b) if the acquisition involves a precinct development lot, a replacement sheet for the schedule of unit entitlements.

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- (2) An acquisition plan must show, as a lot or lots, only the land being acquired and should not include any residue lot.
- (3) An acquisition plan must be a plan of survey of the boundaries of the lots redefined.
- (4) Other boundaries shown on the plan that have not been changed may be compiled from the precinct plan.
- (5) If part of a precinct development lot is to be acquired, the residue of the lot that is not being acquired and that will remain in the scheme is to be shown as a whole lot in the detail plan.
- (6) Any such new lots are to be numbered consecutively beginning with the number following the last number used for the lots in the relevant precinct scheme.
- (7) If a replacement sheet for the precinct property plan is required, the replacement sheet:
  - (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced, and
  - (c) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on the additional sheet for the detail plan.
- (8) Each additional sheet for the detail plan:
  - (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (9) If a replacement for the schedule of unit entitlements is required, the replacement sheet:
  - (a) must be labelled "INITIAL SCHEDULE OF UNIT ENTITLEMENTS", and
  - (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (10) The additional or replacement sheets, or both the additional and replacement sheets, must be accompanied by an administration sheet which must, where the schedule of unit entitlements being replaced was an initial schedule, bear a certificate by a registered valuer in the approved form.



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- (11) An acquisition plan must be accompanied by a transfer of all the land being acquired, unless the Registrar-General agrees otherwise in writing.

### **Division 3 Transactions affecting neighbourhood lots and neighbourhood property**

#### **22 Subdivision of neighbourhood lots and neighbourhood property by a neighbourhood plan of subdivision: section 22**

- (1) A neighbourhood plan of subdivision:
- (a) must show only the lots subject to the subdivision, and
  - (b) must be a plan of survey in relation to the new subdivision boundaries.
- (2) Boundaries of new lots that follow the boundaries of existing lots may be compiled from the original neighbourhood plan.
- (3) Lots on the additional sheets for the detail plan must be numbered consecutively beginning with the next available lot number for the relevant scheme.
- (4) Each additional sheet for the detail plan:
- (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (5) The administration sheet must, if the lot or lots are still held by the original proprietor, or if the neighbourhood property is being subdivided, bear a certificate in the approved form by the neighbourhood association to the effect that the initial period has expired, unless this certificate has been provided to the Registrar-General with an earlier transaction.
- (6) If the subdivision has not been provided for in the development contract and it is necessary to amend that contract, the necessary instrument requesting amendment must be lodged with the plan of subdivision.
- (7) If a replacement sheet for the neighbourhood property plan is required, the replacement sheet:
- (a) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on the additional sheet for the detail plan, and
  - (b) must bear the deposited plan number of the relevant scheme, and

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- (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (8) Each replacement for the schedule of unit entitlements:
- (a) must be labelled “INITIAL SCHEDULE OF UNIT ENTITLEMENTS”, and
- (b) must include in the first column, headed “LOT”, a list of the lots being created, and
- (c) must include in the second column, headed “UNIT ENTITLEMENT”:
- (i) for each lot being subdivided, a reference to the new lots being created, and
- (ii) for each lot being created, its unit entitlement, and
- (d) must include in the third column, headed “SUBDIVISION”, opposite the lot or lots subdivided, a reference to the sheet of the neighbourhood plan that created the new lot or lots, and
- (e) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 1, 10 and 11 to the Act. Schedule 1 imposes general requirements for the preparation of community, precinct and neighbourhood plans, Schedule 10 imposes general requirements for dealings with association property and Schedule 11 contains provisions concerning initial unit entitlements. See also clauses 6, 7 and 8 of this Regulation.

### 23 Consolidation: section 19

- (1) Each additional sheet for the detail plan:
- (a) may be compiled from information in the neighbourhood plan, unless the information is conflicting or the Registrar-General requires a plan of survey, and
- (b) must show only the lots subject to the consolidation, and
- (c) must bear the deposited plan number of the relevant scheme, and
- (d) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (2) Lots on the additional sheets for the detail plan must be numbered consecutively beginning with the next available lot number for the relevant scheme.

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- (3) Each replacement for the schedule of unit entitlements:
- (a) must include the unit entitlement of the consolidated lot or lots as the sum of the entitlements of the lots that comprise such consolidated lot, and
  - (b) must include, against the superseded lots, a reference to the new lot, and in the "SUBDIVISION" column a reference to the sheet of the plan that shows the new consolidated parcel, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 1 and 11 to the Act. Schedule 1 imposes general requirements for the preparation of community, precinct and neighbourhood plans and Schedule 11 contains provisions concerning initial unit entitlements. See also clauses 6 and 8 of this Regulation.

#### **24 Conversion to neighbourhood property: section 20**

- (1) Each replacement sheet for the neighbourhood property plan:
  - (a) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on an additional sheet of the detail plan, and
  - (b) must bear the deposited plan number for the relevant scheme, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (2) The replacement sheet for the neighbourhood property plan must be accompanied by an additional sheet for the detail plan showing the updated survey information for the changed boundaries, which:
  - (a) may be compiled from information in the neighbourhood plan, unless the information conflicts with that information or the Registrar-General requires a plan of survey, and
  - (b) must bear the deposited plan number of the relevant scheme, and
  - (c) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (3) Each replacement for the schedule of unit entitlements:
  - (a) must include, against the converted lot or lots, in the "UNIT ENTITLEMENT" column the words "CONVERTED TO LOT 1", and

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- (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (4) The additional and replacement sheets must be accompanied by an administration sheet which:
  - (a) must bear a certificate by the neighbourhood association to the effect that it agrees to the schedule of unit entitlements, and
  - (b) must bear a certificate by a registered land surveyor within the meaning of the *Surveying Act 2002*, suitably amended to indicate that the replacement sheet for the neighbourhood property plan was compiled, if that is the case.

**Note.** The provisions of this clause apply in addition to the provisions of Schedule 7 to the Act, which imposes general requirements for the conversion of neighbourhood lots to neighbourhood property. See also clauses 7 and 8 of this Regulation.

**25 Dedication of neighbourhood property by neighbourhood association: section 21**

- (1) Each replacement sheet for the neighbourhood property plan:
  - (a) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on an additional sheet of the detail plan, and
  - (b) must bear the deposited plan number of the relevant scheme, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the numbers of times that the sheet has been replaced.
- (2) The replacement sheet for the neighbourhood property plan must be accompanied by an additional sheet for the detail plan showing the updated survey information for the changed boundaries which:
  - (a) must be a plan of survey of the redefined boundaries, and
  - (b) must show the land dedicated which must be shown as “ROAD” or “RESERVE” as the case may be, and
  - (c) must bear the deposited plan number of the relevant scheme, and
  - (d) must be numbered with the next sheet number after the last number used in the relevant scheme.

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- (3) The additional and replacement sheets must be accompanied by an administration sheet which must bear a certificate in the approved form by the neighbourhood association to the effect that the initial period has expired, unless this certificate has been provided to the Registrar-General with an earlier transaction.

**Note.** The provisions of this clause apply in addition to the provisions of Schedule 10 to the Act, which imposes general requirements for dealings with association property. See also clause 7 of this Regulation.

## 26 Acquisition or disposal of neighbourhood property: sections 23 and 24

- (1) Each replacement sheet for the neighbourhood property plan:
- (a) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on an additional sheet of the detail plan, and
  - (b) must bear the deposited plan number of the relevant scheme, and
  - (c) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (2) The replacement sheet for the neighbourhood property plan must be accompanied by an additional sheet for the detail plan showing the updated survey information for the changed boundaries which:
- (a) must be a plan of survey of the redefined boundaries, and
  - (b) must bear the deposited plan number of the relevant scheme, and
  - (c) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (3) If the Registrar-General so requires, a replacement sheet of the location must be provided when land is added to the neighbourhood parcel.

**Note.** The provisions of this clause apply in addition to the provisions of Schedules 9 and 10 to the Act. Schedule 9 to the Act imposes general requirements for additions to association property by lease or transfer and Schedule 10 to the Act imposes general requirements for dealings with association property. See also clause 7 of this Regulation.

## 27 Acquisition plan: section 34

- (1) An acquisition plan is to consist of a plan of subdivision registered under section 195G of the *Conveyancing Act 1919*, an additional sheet for the detail plan and:
- (a) if the acquisition involves neighbourhood property, a replacement sheet for the neighbourhood property plan, or
  - (b) if the acquisition involves a neighbourhood lot, a replacement sheet for the schedule of unit entitlements.

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- (2) An acquisition plan must show, as a lot or lots, only the land being acquired and should not show any residue lot.
- (3) An acquisition plan must be a plan of survey of the boundaries of the lots redefined.
- (4) Other boundaries shown on the plan that have not been changed may be compiled from the neighbourhood plan.
- (5) If part of a neighbourhood lot is to be acquired, the residue of the lot that is not being acquired and that will remain in the scheme is to be shown as a whole lot in the detail plan.
- (6) Any such new lots are to be numbered consecutively beginning with the number following the last number used for the lots in the relevant neighbourhood scheme.
- (7) If a replacement sheet for the neighbourhood property plan is required, the replacement sheet:
  - (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced, and
  - (c) must show the boundaries and complete dimensions of Lot 1 (including area and part area) but with all detailed survey information to be shown on the additional sheet for the detail plan.
- (8) Each additional sheet for the detail plan:
  - (a) must bear the deposited plan number of the relevant scheme, and
  - (b) must be numbered with the next sheet number after the last number used in the relevant scheme.
- (9) If a replacement for the schedule of unit entitlements is required, the replacement sheet:
  - (a) must be labelled "INITIAL SCHEDULE OF UNIT ENTITLEMENTS", and
  - (b) must be numbered with the same sheet number as that of the sheet it is to replace, together with an alphabetic suffix to indicate the number of times that the sheet has been replaced.
- (10) The additional or replacement sheets, or both the additional and replacement sheets, must be accompanied by an administration sheet which must, where the schedule of unit entitlements being replaced was an initial schedule, bear a certificate by a registered valuer in the approved form.

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- (11) An acquisition plan must be lodged in conjunction with a transfer of all the land being acquired, unless the Registrar-General agrees otherwise in writing.

#### **Division 4 Works plans and access way plans**

##### **28 Prescribed diagrams—“works plans”: section 36**

- (1) This clause applies to the prescribed diagram referred to in section 36 of the Act (referred to in this clause as a *works plan*).
- (2) A works plan must be lodged together with the relevant management statement and becomes effective on registration of the plan of which the management statement forms part.
- (3) Each sheet of a works plan is to be numbered as a sheet of the relevant management statement.
- (4) There must be shown on the first page of the works plan:
  - (a) the number of the relevant scheme, and
  - (b) a description of the relevant scheme.
- (5) A works plan:
  - (a) must illustrate the position of:
    - (i) all existing services for which statutory easements are to be created, and
    - (ii) all proposed services that are intended to be provided within the relevant scheme and over which a statutory easement is proposed to be created, and
  - (b) must show sufficient information to locate the approximate position of each service within each lot through which the service passes, and
  - (c) must indicate the nature of the relevant service and how it is, or is proposed to be, provided.

##### **29 Access way plans: sections 41, 42, 43, 43A, 44, 45 and 46**

- (1) An access way plan must be lodged together with the relevant management statement and becomes effective on registration of the plan of which the management statement forms part.
- (2) Each sheet of an access way plan is to be numbered as a sheet of the relevant management statement.
- (3) The number of the relevant scheme must be shown on the first page of the access way plan.

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- (4) An access way plan:
- (a) must illustrate the position of each access way within the association property, and
  - (b) must show and define the extent of any open access way and any private access way and indicate how the position of the point of change of status will be indicated, and
  - (c) if any such access ways have been named, must show the names within the relevant access way with the words “known as” before the name, and
  - (d) must bear a note that the access ways are still association property and are not public roads.
- (5) All survey information required under the *Surveying Act 2002* to define an access way must be shown on the detail plan.
- (6) In this clause, ***access way*** means an open access way or private access way within the meaning of the Act.

**Note.** The regulations under the *Surveying Act 2002* contain requirements as to the marking of roads, including access ways.



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Clause 30

Development contracts and management statements

Part 4

## Part 4 Development contracts and management statements

### 30 Development contract

For the purposes of clause 4 of Schedule 2 to the Act, the prescribed warning to be displayed on a development contract is a warning, in the following form, prominently displayed on page 1 of the contract:

#### WARNING

This contract contains details of a neighbourhood/precinct/community scheme that is proposed to be developed on the land described in it. Interested persons are advised that the proposed scheme may be varied, but only in accordance with section 16 of the *Community Land Management Act 1989*.

If the scheme forms part of a staged development, interested persons are advised of the possibility that the scheme may not be completed and may be terminated by order of the Supreme Court.

This contract must not be considered alone, but in conjunction with the results of the searches and inquiries normally made in respect of a lot in the scheme concerned. Attention is drawn in particular to the management statement registered at the office of the Registrar-General with this contract, which statement sets out the management rules governing the scheme and provides details of the rights and obligations of lot owners under the scheme.

Further particulars about the details of the scheme are available in:

- \* ..... Local Environmental Plan No .....
- \* Development Control Plan ..... of ..... Council
- \* development consent dated ..... granted by .....

The terms of this contract are binding on the original proprietor and any purchaser, lessee or occupier of a lot in the scheme. In addition, the original proprietor covenants with the association concerned and with the subsequent proprietors jointly and with each of them severally to develop the land the subject of the scheme in accordance with the development consent as modified or amended with the consent authority's approval from time to time.

[\* *Delete any matter that does not apply*]

### 31 Development contracts and management statements: general requirements

The development contract and management statement, and instruments setting out amendments to sheets of the development contract or management statement, must comply with the requirements of Schedule 2 to the *Real Property Regulation 2003*.

Clause 32	Community Land Development Regulation 2007
Part 4	Development contracts and management statements

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**32 Amendment of development contract that excludes a lot or part of a lot from the scheme**

Every amendment of a development contract lodged in the office of the Registrar-General for registration that excludes a development lot wholly or partly from a development scheme must be accompanied by a plan of subdivision and such other plans and dealings as are necessary to give effect to the exclusion, including a statement showing an appropriate adjustment of the unit entitlements.

**33 Approval by consent authority for amendment of development contract**

An approval by a consent authority under section 27 of the Act must be in the approved form.

Community Land Development Regulation 2007

Clause 34

Miscellaneous

Part 5

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## Part 5 Miscellaneous

### 34 Expiration of initial period

- (1) On expiry of an initial period, the community, precinct or neighbourhood association concerned may request the Registrar-General to record the expiration of such period on the folio of the Register for the community, precinct or neighbourhood property.
- (2) The request:
  - (a) must contain a certificate in the approved form by the community, precinct or neighbourhood association to the effect that the initial period has expired, and
  - (b) must be lodged on the form approved for requests under the *Real Property Act 1900*.
- (3) On lodgment of such a request, the Registrar-General must make such recording as the Registrar-General thinks fit on the folio of the Register for the relevant community, precinct or neighbourhood property.

### 35 Prescribed time

The prescribed time for the purposes of clause 2 (b) of Schedule 11 to the Act is 2 months before the relevant plans are lodged with the consent authority for approval.

### 36 Prescribed public authorities

Each of the following corporations is prescribed as a public authority for the purposes of the definition of *public authority* in section 3 (1) of the Act:

Alinta AGN Ltd  
Australian Postal Corporation  
Country Energy  
Energy Australia  
Foxtel  
Hunter Water Corporation  
Integral Energy  
Origin Energy Electricity Limited  
Origin Energy LPG Limited  
Origin Energy Retail Limited  
Riverina Water County Council  
Sydney Water Corporation

Clause 37      Community Land Development Regulation 2007

Part 5          Miscellaneous

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**37 Savings**

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



New South Wales

# Conveyancing (General) Amendment (Registration of Plans) Regulation 2007

under the

Conveyancing Act 1919

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

ANTHONY KELLY, M.L.C.,  
Minister for Lands

## Explanatory note

The object of this Regulation is to amend the *Conveyancing (General) Regulation 2003* as follows:

- (a) to give effect to recent amendments made to the *Conveyancing Act 1919* to introduce one standard document (an administration sheet) that is required to be lodged with the Registrar-General with any plan of the division of land, whether the plan is lodged manually or electronically (and, accordingly, to omit references to signatures forms, which were separate forms on which signatures and consents were endorsed and which were required to be lodged when plans were lodged electronically, whereas signatures and consents were endorsed on the actual plans when plans were lodged manually) (Schedule 1 [1], [2], [8]–[16], [18], [24]–[26], [28], [29], [32] and [36]–[40]),
- (b) to clarify the status of notes (Schedule 1 [3]),
- (c) to omit a redundant clause (Schedule 1 [4]),
- (d) to give the Registrar-General the discretion to require parcels of land intended to be dedicated as roads to be renumbered (Schedule 1 [5] and [6]),
- (e) to require a deposited plan to set out the name of the surveyor, the surveyor's reference, the date of the survey, the relevant reduction ratio, the plan heading, the local government area, the locality and the subdivision certificate number (Schedule 1 [7]),
- (f) to amend the particulars required to be contained in a deposited plan that is not a plan of survey (Schedule 1 [8]),

## Conveyancing (General) Amendment (Registration of Plans) Regulation 2007

## Explanatory note

- 
- (g) to omit the requirement that, when a plan is lodged by hand, the print of each sheet of the plan must contain particulars of the subdivision certificate (Schedule 1 [9]),
  - (h) to require a deposited plan that is not a plan of survey to include certain matter on the administration sheet (Schedule 1 [13], proposed clause 25 (d)),
  - (i) to require the administration sheet for a plan of subdivision to contain the particulars of the subdivision certificate under the original signature of the person who gave the certificate (Schedule 1 [13], proposed clause 25 (e) (i)),
  - (j) to require all plans of subdivision for lease purposes to be endorsed by a subdivision certificate that states that the plan is a plan of subdivision for lease purposes or forestry lease purposes (as the case may be) (Schedule 1 [13], proposed clause 25 (e) (ii) and (iii)),
  - (k) to require an administration sheet to be lodged in the same manner as the relevant plan (Schedule 1 [17]),
  - (l) to require a notation referring to an intention to create or release an easement or profit à prendre, or to create a restriction or positive covenant to be entered on the administration sheet in certain circumstances (Schedule 1 [19]),
  - (m) to require that no other statement of the intention to create or release an easement or profit à prendre, or to create a restriction or positive covenant is on the administration sheet (Schedule 1 [20]),
  - (n) to require the intention to dedicate public roads or to create a reserve to be provided on the administration sheet (Schedule 1 [21]),
  - (o) to require the intention to release an easement or profit à prendre pursuant to section 88B is to be provided on the administration sheet (Schedule 1 [22]),
  - (p) to require the intention to create an easement, profit à prendre, restriction or positive covenant, or the intention to release an easement or profit à prendre, to be repeated in the same form in a section 88B instrument as in the administration sheet (Schedule 1 [23]),
  - (q) to increase the limit on the number of additional sheets of an administration sheet (Schedule 1 [26]),
  - (r) to require that all administration sheets are prepared on archival paper (Schedule 1 [27]),
  - (s) to require that all manually lodged plans are prepared on archival paper and to remove the requirement that plans must be drawn on a matt surface (Schedule 1 [30]),
  - (t) to require that all plan sheets lodged by hand are numbered consecutively and that each administration sheet is numbered consecutively but separately from the drawing sheets (Schedule 1 [31]),
  - (u) to require that no signatures or seals are to appear on a deposited plan (Schedule 1 [33]),
  - (v) to remove the limit on the number of additional sheets of a deposited plan (Schedule 1 [34]),
  - (w) to require that all plan sheets lodged electronically are numbered consecutively and that each administration sheet is numbered consecutively but separately from the drawing sheets (Schedule 1 [35]).

Conveyancing (General) Amendment (Registration of Plans) Regulation 2007

Explanatory note

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This Regulation is made under the *Conveyancing Act 1919* (as amended by the *Statute Law (Miscellaneous Provisions) Act 2007*), including section 202 (General rules under Part 23 as to registration and fees).

Clause 1            Conveyancing (General) Amendment (Registration of Plans) Regulation  
                         2007

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## **Conveyancing (General) Amendment (Registration of Plans) Regulation 2007**

under the

Conveyancing Act 1919

### **1 Name of Regulation**

This Regulation is the *Conveyancing (General) Amendment (Registration of Plans) Regulation 2007*.

### **2 Commencement**

This Regulation commences on 1 September 2007.

### **3 Amendment of Conveyancing (General) Regulation 2003**

The *Conveyancing (General) Regulation 2003* is amended as set out in Schedule 1.



Conveyancing (General) Amendment (Registration of Plans) Regulation  
2007

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 3)

**[1] Clause 3 Definitions**

Insert in alphabetical order:

*administration sheet*, in relation to a plan, means the separate document, in the approved form, required to be lodged with the plan under section 195A of the Act.

**[2] Clause 3, definition of “signatures form”**

Omit the definition.

**[3] Clause 3 (2)**

Insert at the end of clause 3:

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

**[4] Clause 13 Electronic signatures, seals and certificates**

Omit the clause.

**[5] Clause 16 Numbering of parcels**

Omit “, but excluding public roads” from clause 16 (1).

**[6] Clause 16 (1A)**

Insert after clause 16 (1):

- (1A) All parcels of land that are intended to be dedicated as roads must be numbered consecutively in strict numerical sequence, using no more than 4 numerals for each parcel number, if the Registrar-General has required them to be so numbered.

**[7] Clause 17**

Omit the clause. Insert instead:

**17 Other information on plans**

The following matters must be shown in the relevant spaces of the information panels of a deposited plan:

- (a) the name of the surveyor who carried out the relevant survey,  
(b) the surveyor’s reference,  
(c) the date of the survey,

Conveyancing (General) Amendment (Registration of Plans) Regulation  
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## Schedule 1 Amendments

- 
- (d) the reduction ratio at which the plan is drawn,
  - (e) the plan heading,
  - (f) the local government area,
  - (g) the locality,
  - (h) the subdivision certificate number.

**[8] Clause 20**

Omit the clause. Insert instead:

**20 Particulars on a deposited plan that is not a plan of survey**

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

- (a) sufficient connections to locate each parcel comprised in the plan,
- (b) the date of preparation of the plan.

**[9] Clause 21 Lodgment of plans by hand**

Omit clause 21 (2) and (3). Insert instead:

- (2) The original plan must be accompanied by the following:
  - (a) a completed plan lodgment form in the approved form,
  - (b) a completed statement of the title particulars in the approved form, if required by the Registrar-General,
  - (c) one print of each sheet of the plan (each sheet being a positive reproduction on a light background),
  - (d) the relevant fee as set out in Schedule 1,
  - (e) a completed plan checklist in the approved form, if required by the Registrar-General,
  - (f) such certificates of titles, and such instruments as the Registrar-General may require.

**Note.** Section 195A of the Act requires a plan to be lodged with a separate document in the approved form relating to the plan. Such a document is called an **administration sheet** in this Regulation. Division 2 makes provision for administration sheets, including by requiring compliance with Schedule 4.

**[10] Clause 22 Lodgment of plans electronically**

Omit clause 22 (3). Insert instead:

- (3) The electronic data file containing the plan in electronic form must be accompanied by electronic data files containing in electronic form:

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- (a) a completed plan checklist in the approved form, if required by the Registrar-General, and
- (b) such other instruments and data as the Registrar-General may require.

**Note.** Section 195A of the Act requires a plan to be lodged with a separate document in the approved form relating to the plan. Such a document is called an **administration sheet** in this Regulation. Division 2 makes provision for administration sheets, including by requiring compliance with Schedule 4 and, where appropriate, Schedule 7.

[11] **Part 3, Division 2**

Omit the heading to the Division. Insert instead:

**Division 2 Administration sheet**

[12] **Part 3, Division 2, note**

Omit the note. Insert instead:

**Note.** Section 195A of the Act provides that, if a plan is lodged (whether by hand or electronically) the plan must be lodged with a separate document in the form approved by the Registrar-General. Such a document is called an **administration sheet** in this Regulation. Signatures and consents are required to be endorsed on the administration sheet by section 195D of the Act.

[13] **Clause 25**

Omit the clause. Insert instead:

**25 Content of the administration sheet**

The administration sheet:

- (a) must repeat the plan heading and the surveyor's reference in the appropriate panels on each sheet of the approved form, and
- (b) must include any statement of intention to dedicate a public road (including a temporary public road) under the *Roads Act 1993* or to create a public reserve or drainage reserve under the *Local Government Act 1993*, and
- (c) must contain all the certificates required by the Registrar-General, endorsed in the appropriate panels on the approved form, and
- (d) in the case of an administration sheet for a deposited plan that does not comprise a plan of survey:
  - (i) must contain a statement identifying the source of the information from which the plan has been compiled, and

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- 
- (ii) must contain the signature of the surveyor or other person who prepared the plan, signed on the surveyor certificate on the administration sheet, and
  - (e) in the case of an administration sheet for a plan of subdivision:
    - (i) must contain the particulars of the subdivision certificate under an original signature of the person who gave the certificate, and
    - (ii) if it is a plan of subdivision for lease purposes (within the meaning of Division 3B of Part 2 of the Act)—must be endorsed by a subdivision certificate that states that the plan is a plan of subdivision for lease purposes, and
    - (iii) if it is a plan of subdivision for lease purposes (within the meaning of Division 3C of Part 2 of the Act)—must be endorsed by a subdivision certificate that states that the plan is a plan of subdivision for forestry lease purposes.

**Note.** Division 3 may require further matters to be included on the administration sheet.

**[14] Clause 26 Administration sheet to comply with Schedule 4 or Schedules 4 and 7 requirements**

Omit “A signatures form” and “the signatures form” wherever occurring.

Insert instead “An administration sheet” and “the administration sheet”, respectively.

**[15] Clause 27 Refusal to accept an administration sheet**

Omit “a signatures form”. Insert instead “an administration sheet”.

**[16] Clause 27**

Insert “is not in the approved form or” before “does”.

**[17] Clause 27A**

Insert after clause 27:

**27A Manner of lodging administration sheet**

- (1) If a plan is lodged by hand for registration, the administration sheet must also be lodged by hand.
- (2) If a plan is lodged electronically for registration, the administration sheet must also be lodged electronically.

Conveyancing (General) Amendment (Registration of Plans) Regulation  
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**[18] Clause 28 Registration of an administration sheet**

Omit “a signatures form, the signatures form”.

Insert instead “an administration sheet, the administration sheet”.

**[19] Clause 29 Indication of site of proposed easement or variation of site of existing easement**

Omit “must not be entered on a deposited plan unless” from clause 29 (1).

Insert instead “must be entered on the administration sheet if”.

**[20] Clause 29 (2) (b)**

Omit “elsewhere on the plan”. Insert instead “on the administration sheet”.

**[21] Clause 30**

Omit the clause. Insert instead:

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

- (1) This clause applies to a deposited plan which, on registration, is intended to dedicate a public road (including a temporary public road) under the *Roads Act 1993* or to create a public reserve or drainage reserve under the *Local Government Act 1993*.
- (2) The statement of intention to dedicate the road or to create the reserve must be legibly printed on the administration sheet lodged with the plan.

**[22] Clause 32**

Omit the clause. Insert instead:

**32 Indication of release of easements**

- (1) This clause applies to a deposited plan which, on registration, is intended to release an easement or profit à prendre (in respect of some or all of the land to which it formerly applied) pursuant to section 88B of the Act.
- (2) If this clause applies:
  - (a) a statement of intention to release the easement or profit à prendre must be legibly printed on the administration sheet lodged with the plan, and
  - (b) sufficient information must be shown on the plan, or included in the relevant section 88B instrument, to indicate the extent of the release, and

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

**[23] Clause 33 Form and content of section 88B instruments**

Omit “information panel in the relevant plan form” wherever occurring in clause 33 (2) and (3).

Insert instead “administration sheet lodged with the relevant plan”.

**[24] Schedule 4, heading**

Omit “**signatures form**”. Insert instead “**administration sheet**”.

**[25] Schedule 4, note to Schedule**

Omit the note.

**[26] Schedule 4, clause 1**

Omit the clause. Insert instead:

**1 Use of approved form**

Any signatures, seals or certificates that cannot satisfactorily be shown on one sheet may be shown on one or more additional sheets in the approved form. The total number of additional sheets must not be more than 5 unless the Registrar-General otherwise approves.

**Note.** An administration sheet is required by section 195A of the Act to be in the approved form. The completed administration sheet must be lodged with and in the same manner as the plan. This Schedule prescribes additional requirements.

**[27] Schedule 4, clause 2**

Omit the clause. Insert instead:

**2 Paper**

The paper used must be:

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

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- [28] **Schedule 4, clause 4 (1)**  
Omit “a signatures form”. Insert instead “an administration sheet”.
- [29] **Schedule 4, clause 6**  
Omit “signatures form”. Insert instead “administration sheet”.
- [30] **Schedule 5 Requirements for deposited plans lodged by hand**  
Omit clause 1. Insert instead:
- 1 Material on which plan to be drawn**
- (1) Each plan sheet must consist of archival paper of a quality approved by the Registrar-General.
- (2) A plan must be drawn on one side of a plan sheet only.
- (3) Each plan sheet must be free from blemishes and creases.
- [31] **Schedule 5, clause 2A**  
Insert after clause 2:
- 2A Numbering**
- (1) Each plan sheet must be numbered consecutively.
- (2) Each administration sheet must be numbered consecutively, but separately from the drawing sheets.
- [32] **Schedule 5, clause 8 (5)**  
Omit “a signatures form”. Insert instead “an administration sheet”.
- [33] **Schedule 5, clause 15**  
Insert after clause 14:
- 15 Signatures not to appear**
- No signatures or seals are to appear on the deposited plan.
- Note.** All signatures and seals must be shown on the administration sheet.
- [34] **Schedule 6 Requirements for deposited plans lodged electronically for registration**  
Omit “The total number of additional sheets must not be more than 3 unless the Registrar-General otherwise approves.” from clause 2 (2).

Conveyancing (General) Amendment (Registration of Plans) Regulation  
2007

Schedule 1 Amendments

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**[35] Schedule 6, clause 2A**

Insert after clause 2:

**2A Numbering**

- (1) Each plan sheet must be numbered consecutively.
- (2) Each administration sheet must be numbered consecutively, but separately from the drawing sheets.

**[36] Schedule 6, note to clause 15**

Omit “signatures form”. Insert instead “administration sheet”.

**[37] Schedule 7, heading**

Omit “**signatures form**”. Insert instead “**administration sheet**”.

**[38] Schedule 7, clauses 1 (1) and 3 (1) and note to clause 3**

Omit “signatures form” wherever occurring.

Insert instead “administration sheet”.

**[39] Schedule 7, clause 2**

Omit “a signatures form”. Insert instead “an administration sheet”.

**[40] Schedule 8 Requirements for lodging other documents electronically**

Omit “a signatures form” from clause 1 (1).

Insert instead “an administration sheet”.





New South Wales

# Education Regulation 2007

under the

Education Act 1990

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Education Act 1990*.

JOHN DELLA BOSCA, M.L.C.,  
Minister for Education and Training

## Explanatory note

The object of this Regulation is to remake, without substantial change, the *Education Regulation 2001* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters:

- (a) the publication of the results of basic skills testing and School Certificate and Higher School Certificate examinations and related assessments,
- (b) the particular kinds of children in respect of whom certain non-government schools may be registered,
- (c) the particular kinds of changes to the circumstances of the operation of a non-government school that must be notified and that affect the registration of the school,
- (d) the constitution of parents and citizens associations and kindred associations for government schools,
- (e) the areas for which a district council may be established,
- (f) the constitution of district councils,
- (g) the publication of the rules of the Board of Studies,
- (h) the saving of certain syllabuses and district council areas.

This Regulation is made under the *Education Act 1990*, including sections 18A, 53, 63, 64, 65, 115, 130 (the general regulation-making power) and 131.

Education Regulation 2007

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Education Regulation 2007

Clause 1

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## Education Regulation 2007

under the

Education Act 1990

### 1 Name of Regulation

This Regulation is the *Education Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Education Regulation 2001* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

(1) In this Regulation:

*the Act* or *the new Act* means the *Education Act 1990*.

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

### 4 Publication of results and other matters

(1) This clause applies to the following results:

- (a) results of basic skills testing under section 18 of the Act,
- (b) results of School Certificate and Higher School Certificate examinations and related assessments,
- (c) results of annual assessments of the academic performance of students contained in reports to parents on student achievement.

(2) The following are included for the purposes of subclause (1) (a):

- (a) English Language and Literacy Assessment (ELLA),
- (b) Primary Writing Assessment,
- (c) Secondary Numeracy Assessment Program (SNAP),
- (d) Essential Secondary Science Assessment,
- (e) OECD Programme for International Student Assessment (PISA),
- (f) Trends in International Mathematics and Science Study (TIMMS),

## Clause 4 Education Regulation 2007

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- (g) Best Start Kindergarten Assessment,
  - (h) Year 3 and 5 Basic Skills Test (BST),
  - (i) Year 3, 5, 7 and 9 National Test in literacy,
  - (j) Year 3, 5, 7 and 9 National Test in numeracy,
  - (k) Year 6 National Assessment Program—Science Literacy,
  - (l) Year 6 and 10 National Assessment Program—ICT Literacy,
  - (m) Year 6 and 10 National Assessment Program—Civics and Citizenship,
  - (n) Year 6 and 10 Computing Skills Assessment.
- (3) Results to which this clause applies must not be publicly revealed if the results relating to particular students are revealed.
- (4) Results relating to a particular student may however be revealed as follows:
- (a) to the student or to anyone with the student's consent,
  - (b) to the student's parents (or his or her other caregivers),
  - (c) to the principal of a school (including a school in another State or Territory) at which the student is enrolling, enrolled or at which the student was previously enrolled,
  - (d) in the case of results of School Certificate or Higher School Certificate examinations and related assessments—by or with the approval of the Board of Studies, by way of the publication of the results of students who the Board considers have achieved outstanding results.
- (5) Results to which this clause applies must not be publicly revealed in a way that ranks or otherwise compares the results of particular schools.
- (6) If a school is required (by the appropriate authority for the school) to publish an annual report of school performance but fails to do so by the due date for publication, this clause does not prevent the public release of any results that were required to be the subject of that report.
- (7) The **appropriate authority** for the purposes of subclause (6) is:
- (a) in the case of a government school—the Department of Education and Training, or
  - (b) in the case of a non-government school registered as a member of a system of non-government schools—the approved authority for the system, or
  - (c) in the case of a non-government school registered as an individual school—the proprietor of the school.

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**5 Registration of non-government schools as efficient for education of children of particular kind**

Children of the following kinds are prescribed for the purposes of section 53 (1) (c), 64 (2) (b) and 65 (2) (c) of the Act:

- (a) children who need special instruction because of sensory, physical, intellectual or emotional disabilities,
- (b) children who are, or who are the children of, foreign nationals.

**6 Change in circumstances of the operation of a non-government school**

- (1) For the purposes of section 63 (1) of the Act, the following changes to the circumstances of the operation of a registered non-government school are prescribed:
  - (a) the closure of the school,
  - (b) the cessation of operation of the school for at least 1 year,
  - (c) the cessation of operation of the school for at least 2 years.
- (2) For the purposes of section 63 (1) of the Act, notice of such a change must be given:
  - (a) to any person designated by the Board as a designated person for the purposes of this clause in an official notice given to schools by the Board, and
  - (b) as soon as reasonably practicable after the proprietor or principal of a school (or, in the case of a school that is a member of a system of non-government schools, the approved authority for the system) becomes aware that the school is to undergo, or has undergone, a change of a prescribed kind, but not later than one month after such a change has occurred.
- (3) In the event of a change of the kind prescribed by subclause (1) (a) or (c) at a school, the registration of the school ceases.
- (4) In the event of a change of the kind prescribed by subclause (1) (b) at a school, the registration of the school is limited to the period ending 1 year after the end of the first 12 months during which the school did not operate.
- (5) If the registration of a school ceases under subclause (3) or is limited under subclause (4), the Minister is to give written notice of that cessation or limitation to the proprietor or principal of the school or, in the case of a school that is a member of a system of non-government schools, to the approved authority for the system.

Clause 7 Education Regulation 2007

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- (6) For the purposes of this clause, a school ceases operations if:
  - (a) there are no courses of study being taught at the school, or
  - (b) there are no students enrolled at the school.
- (7) In subclause (6), *courses of study* means courses of study that comply with the curriculum requirements under Part 3 of the Act for the years of schooling for which the school is certified as efficient for education under section 53 of the Act.

**7 Constitution of parents and citizens associations and kindred associations for government schools**

- (1) The Minister may constitute a parents and citizens association or kindred association for a government school on receiving minutes of a meeting at which 7 or more persons (each being a parent of a child attending the school or a resident of the district served by the school):
  - (a) have resolved that such an association be formed, and
  - (b) have appointed the following officers from among themselves, namely, a president, at least 2 vice-presidents, a treasurer and a secretary.
- (2) The officers of such an association hold office until their successors are appointed in accordance with such rules as are made or adopted by the association for the conduct of the association's affairs.

**8 District council areas**

For the purposes of section 115 (2) of the Act, the following are prescribed as areas for which a district council may be established:

Far South Coast district as shown on the map marked "Area of Far South Coast District Council of P&C Associations" deposited in the principal office of the Department of Education and Training.

**9 Notice of establishment of district council**

On establishing a district council for an area, the Minister must cause notice of that fact to be published in the Gazette.

**10 Constitution of district council**

- (1) A district council for an area is to consist of delegates appointed by each parents and citizens association or kindred association constituted for any government school situated in the area.
- (2) Each parents and citizens association or kindred association may appoint up to 2 such delegates.

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- (3) The delegates of a parents and citizens association or kindred association are to be appointed in accordance with the rules made or adopted by the association for the conduct of the association's affairs.

**11 Publication of rules of Board of Studies**

- (1) A rule made by the Board of Studies under section 131 of the Act is to be published by means of a notice displayed to the public at the Board's office or by publication on the Board of Studies website.
- (2) A copy of each such rule:
- (a) must be included in the relevant bulletins and manuals issued by the Board to government schools and non-government schools, and
  - (b) must be available for public inspection at the Board's offices during business hours.

**12 Saving of certain syllabuses**

- (1) A syllabus for a course of study:
- (a) that was, immediately before the commencement of the new Act, approved or adopted by the Board of Secondary Education under the *Education and Public Instruction Act 1987*, and
  - (b) that has not, since that date, been duly replaced under the new Act,
- is taken to be a syllabus approved by the Minister under the new Act.
- (2) Subclause (1) ceases to apply to a syllabus that is replaced by a new syllabus.

**13 Saving of certain district council areas**

- (1) The area for which a district council was established under the *Education and Public Instruction Act 1987*, as existing immediately before the commencement of the new Act, is taken to be an area prescribed for the purposes of section 115 (2) of the new Act.
- (2) Land within an area referred to in subclause (1) ceases to be part of that area if the land is subsequently included in an area prescribed in respect of a district council established under the new Act.

**14 General saving**

Any act, matter or thing that, immediately before the repeal of the *Education Regulation 2001*, had effect under that Regulation is taken to have effect under this Regulation.



New South Wales

# Fair Trading Regulation 2007

under the

Fair Trading Act 1987

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Fair Trading Act 1987*.

LINDA BURNEY, M.P.,  
Minister for Fair Trading

## Explanatory note

This Regulation remakes the *Fair Trading (General) Regulation 2002* (the **2002 Regulation**). That Regulation will be repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The changes made by this Regulation consist mainly of the omission of various transitional provisions that are now spent and the updating of references to certain Australian Standards adopted by this Regulation (dealing with household cots, children's nightwear and paper patterns for children's nightwear) that have replaced (or will be replacing) versions that were adopted by the 2002 Regulation. This Regulation also provides for variations to the new versions of these Standards in line with Commonwealth variations.

This Regulation does the following:

- (a) it prescribes safety standards for various goods (such as spa outlets, new and second-hand household cots, children's toys, children's nightwear, protective helmets for cyclists, corded internal window coverings, moveable soccer goals, basketball rings and backboards and rubber hot water bottles),
- (b) it prescribes the product information standards to be used for:
  - (i) textile products, and
  - (ii) the "care" labelling of clothing and certain other softgoods, and
  - (iii) the retail sale of regular unleaded petrol at petrol stations,
- (c) it prescribes an information standard for employment placement services,
- (d) it excludes (or partially excludes) specified kinds of contracts from the operation of the direct commerce provisions of the *Fair Trading Act 1987* (**the Act**), prescribes the manner in which a notice of cancellation of a direct commerce contract may be given



## Fair Trading Regulation 2007

## Explanatory note

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and provides (in relation to specified direct commerce contracts) for the refund of fees collected, during the cooling-off period for direct commerce contracts, for services not used by the consumer during that period,

- (e) it declares an industry code of conduct relating to the conduct of the business of motor vehicle insurers and repairers to be an applicable code of conduct for the purposes of the Act (which requires insurers and repairers to comply with such a code),
- (f) it prescribes certain offences under the Act as offences in respect of which penalty notices may be issued,
- (g) it enables certain functions conferred on the Commissioner for Fair Trading under the *Gas Supply Act 1996* to be delegated under the *Fair Trading Act 1987*,
- (h) it makes other provisions of a formal nature (such as the commencement provision).

This Regulation refers to the following standards:

- (a) Australian Standards:
  - AS 1754—1991, *Child restraint systems for use in motor vehicles*,
  - AS 1754—1975, *Child Restraints for Passenger Cars and Derivatives*,
  - AS 1900—1991, *Flotation toys and swimming aids for children*,
  - AS 1512—1996, *Personal flotation devices—Type 1*,
  - AS 1499—1996, *Personal flotation devices—Type 2*,
  - AS 1698—1988, *Protective helmets for vehicle users*,
  - AS 1182—1997, *Size coding scheme for infants' and children's clothing—Underwear and outerwear*,
  - AS 1926.3—1993, *Swimming pool safety, Part 3: Water recirculation and filtration systems*.
- (b) Australian/New Zealand Standards:
  - AS/NZS 1249:1999, *Children's nightwear and limited daywear having reduced fire hazard*,
  - AS/NZS 1249:2003, *Children's nightwear and limited daywear having reduced fire hazard*,
  - AS/NZS 2172:2003, *Cots for household use—Safety requirements*,
  - AS/NZS 2211.1:1997, *Laser safety, Part 1: Equipment classification, requirements and user's guide*,
  - AS/NZS 2512.1:1998, *Methods of testing protective helmets, Method 1: Definitions and headforms*,
  - AS/NZS 1927:1998, *Pedal bicycles—Safety requirements*,
  - AS/NZS 2063:1996, *Pedal cycle helmets*,
  - AS/NZS ISO 8124.1:2002, *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties (ISO 8124-1:2000, MOD)*,
  - AS/NZS 1067:2003, *Sunglasses and fashion spectacles*,
  - AS/NZS 2622:1996, *Textile products—Fibre content labelling*,
  - AS/NZS 1957:1998, *Textiles—Care labelling*,
  - AS/NZS 2392:1999, *Textiles—Labelling of clothing, household textiles and furnishings*,

## Fair Trading Regulation 2007

## Explanatory note

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AS/NZS 2450:1994, *Textiles—Natural and man-made fibres—Generic names*,

## (c) American and International Standards:

American National Standard ANSI/WCMA A100.1—1996, *American National Standard for safety of corded window covering products* approved by the American National Standards Institute,

*Consumer Product Safety Standard for Cigarette Lighters* (16 CFR 1210) published in the Federal Register of the United States of America, Volume 58, No 131,

British Standard BS 1970:2001, *Hot water bottles manufactured from rubber and PVC—Specification* of the British Standards Institution,

United States Standard entitled *Standard Consumer Safety Specification for Infant Walkers* of the American Society for Testing and Materials,

*1995 Standard For Protective Headgear For Use In Bicycling* including the Child Helmet Addendum To Standards For Protective Headgear published by the Snell Memorial Foundation of the United States of America,

American National Standard ASME/ANSI A112.19.8M—1987, *Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Whirlpool Bathtub Appliances* of the American Society of Mechanical Engineers,

International Standard ISO 6941:1984 *Textile fabrics—Burning behaviour—Measurement of flame spread properties of vertically oriented specimens* of the International Organization for Standardization.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely, matters of a machinery nature, matters of a savings nature, matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory, 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 *Fair Trading Act 1987*, including sections 8, 26, 38, 40B, 40E, 60R, 60X, 64 and 92 (the general regulation-making power).

Fair Trading Regulation 2007

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Fair Trading Regulation 2007

Clause 1

Preliminary

Part 1

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## Fair Trading Regulation 2007

under the

Fair Trading Act 1987

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Fair Trading Regulation 2007*.

**Note.** This Regulation replaces the *Fair Trading (General) Regulation 2002* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

#### 3 Definition

(1) In this Regulation:

*the Act* means the *Fair Trading Act 1987*.

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

#### 4 Compliance with specification

For the purposes of this Regulation, goods do not fail to comply with a standard referred to in a Division relating to those goods merely because they do not comply with a provision of the standard:

- (a) that is expressed to be a recommendation, or
- (b) in relation to which the word “should” or “preferably” is used to indicate that the provision is of an advisory nature only.



Clause 5 Fair Trading Regulation 2007

Part 2 Product safety standards

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## Part 2 Product safety standards

### Division 1 Preliminary

#### 5 Product safety standards

The standards set out in the other Divisions of this Part are prescribed under section 26 of the Act as product safety standards for the goods to which those Divisions apply.

**Note.** The consequences of failing to comply with a product safety standard are set out in section 27 of the Act.

#### 6 Exceptions

The product safety standards prescribed by this Regulation do not apply to the supply of goods in the following circumstances:

- (a) if the goods are supplied as scrap, that is, for the value of the materials of which the goods are composed and not for use as finished articles,
- (b) in the case of goods supplied under a credit sale contract (within the meaning of the *Credit Act 1984*) or a credit contract (within the meaning of the *Consumer Credit (New South Wales) Code*) or under any agreement for the purchase of goods by instalments (such as a hire-purchase agreement), if the supplier has at no time had possession of the goods and only became the owner of the goods at or after the time of entering into the contract or agreement,
- (c) in the case of goods that are damaged, if the goods are supplied to a person who carries on a business of buying damaged goods and repairing or reconditioning them for resale, or to a person by whom the goods were insured against damage,
- (d) in the case of goods that are let on hire, or that are supplied to another person for the purpose of being let on hire by the other person, if the letting is incidental to the letting of premises or if the letting was lawful at the time when it began.

### Division 2 Swimming pools: outlets

#### 7 Definitions

In this Division:

**AS 1926.3** means the Australian Standard entitled AS 1926.3—1993, *Swimming pool safety, Part 3: Water recirculation and filtration systems*, as published by Standards Australia on 26 July 1993.

Fair Trading Regulation 2007

Clause 8

Product safety standards

Part 2

**outlet** means an opening in a swimming pool wall or floor through which water leaves the pool.

**potty skimmer** means an outlet attached to or set in a pool wall at water level:

- (a) that is used as the main suction point for the filter pump and is intended to draw water from the pool surface to remove and collect debris, and
- (b) that resembles a child's chamber-pot and is commonly known as a potty skimmer.

**swimming pool** means any excavation or structure containing water to a depth greater than 300 millimetres and used primarily for swimming, wading, paddling or the like, and includes a bathing or wading pool, but does not include a spa.

## 8 Safety standard

The product safety standard prescribed for swimming pools having outlets in the form of potty skimmers is that each such outlet must comply with Clause 4.2 of AS 1926.3.

## Division 3 Spas: outlets

### 9 Definitions

In this Division:

**ANSI A112** means the American National Standard entitled *Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Whirlpool Bathtub Appliances* and numbered ASME/ANSI A112.19.8M—1987, of the American Society of Mechanical Engineers, as issued on 31 December 1987.

**AS 1926.3** means the Australian Standard entitled AS 1926.3—1993, *Swimming pool safety, Part 3: Water recirculation and filtration systems*, as published by Standards Australia on 26 July 1993.

**outlet** means an opening in a spa wall or floor through which the water leaves the spa.

**potty skimmer** means a surface mounted outlet in a spa that resembles a child's chamber-pot and is commonly known as a potty skimmer.

**spa** means a water-retaining structure with a capacity of at least 680 litres with which is associated the facility for heating the water contained in it and injecting air bubbles or jets of turbulent water.

**surface mounted outlet** means an outlet mounted at or near the water surface level of the spa for the purpose of surface skimming.

Clause 10 Fair Trading Regulation 2007

Part 2 Product safety standards

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## 10 Safety standard

The product safety standard prescribed for spas having outlets in the form of potty skimmers is that the spas are constructed so that:

- (a) each pump is connected to at least 2 outlets from the spa by means of a common line, and
- (b) the pipes of all outlets connected to the common line have the same diameter, and
- (c) at least 2 outlets on the common line function at the same time (except when the spa is being cleaned), and
- (d) each outlet connected to the common line is at least 600 millimetres distant from every other outlet connected to that line, and
- (e) each potty skimmer:
  - (i) is fitted with a lid complying with clause 11, and
  - (ii) passes the single blockage and total blockage tests set out in clauses 13 and 14, and
- (f) each outlet other than a potty skimmer:
  - (i) is fitted with a protective cover that can be removed only with the use of a tool, and
  - (ii) complies with clause 12.

## 11 Requirements for lids for potty skimmers

- (1) A lid for a potty skimmer must carry the following warning:  
WARNING: LID IS NOT TO BE REMOVED WHILE SPA IS OPERATING
- (2) The warning:
  - (a) must be visible on the upper surface of the lid, and
  - (b) must be moulded or engraved in (or otherwise permanently attached to) the lid in such a way that it will remain legible despite normal use and handling of the lid, and
  - (c) must show the word "WARNING" in upper case letters at least 5 millimetres high, and
  - (d) must show the remaining words in upper case letters at least 2.5 millimetres high.

Fair Trading Regulation 2007

Clause 12

Product safety standards

Part 2

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## 12 Requirements for outlets other than potty skimmers

An outlet other than a potty skimmer (whether surface mounted or not):

- (a) must pass the Hair Entrapment Test set out in Clauses 5.1–5.3 of ANSI A112 (in which an outlet is referred to as a “suction fitting”), or
- (b) must comply with Clause 5.1 (a) of AS 1926.3.

## 13 Single blockage test for potty skimmers

- (1) The single blockage test for a potty skimmer is to be conducted as follows:
  - (a) the potty skimmer lid, and any other safety features of the potty skimmer that can be removed without the use of a tool or excessive force, are to be removed,
  - (b) the spa is to be operating with other normal safety features (such as cut-out switches, if supplied, and protective covers on outlets other than potty skimmers) functioning or in place,
  - (c) after the spa has been operating for at least one minute, the potty skimmer is to be blocked.
- (2) Suction in the blocked potty skimmer is to be measured for at least 15 seconds after the blockage.
- (3) The suction must not exceed 12 kilopascals.

## 14 Total blockage test for potty skimmers

- (1) The total blockage test for a potty skimmer is to be conducted as follows:
  - (a) the potty skimmer lid, and any other safety features of the potty skimmer that can be removed without the use of a tool or excessive force, are to be removed,
  - (b) the spa is to be operating with other normal safety features (such as cut-out switches, if supplied, and protective covers on outlets other than potty skimmers) functioning or in place,
  - (c) after the spa has been operating for at least one minute, all outlets are to be blocked simultaneously, with outlets other than surface mounted outlets being sealed.
- (2) Suction in the blocked potty skimmer is to be measured for at least 15 seconds, beginning one second after blockage.
- (3) The suction must not exceed 1 kilopascal.

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Part 2 Product safety standards

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## Division 4 Sunglasses and fashion spectacles

### 15 Definitions

In this Division:

*AS/NZS 1067:2003* means the Australian/New Zealand Standard entitled AS/NZS 1067:2003, *Sunglasses and fashion spectacles* jointly published by Standards Australia and Standards New Zealand on 10 April 2003.

*sunglasses* and *fashion spectacles* mean sunglasses and fashion spectacles having lenses of nominally zero refractive power and include sunglasses and fashion spectacles of the one-piece or visor type and clip-on sunglasses, but do not include:

- (a) glasses for special use (such as glasses for use while target shooting) that do not primarily provide protection against sunglare or radiation from natural sunlight, or
- (b) goggles that are held in position by means of a strap passing around the back of the head, or
- (c) glasses that, in industrial environments, provide protection from radiation other than solar radiation or protection from physical impact, or
- (d) glasses for use as toys that are clearly and legibly labelled as toys.

### 16 Safety standard

The product safety standard prescribed for sunglasses and fashion spectacles is that they must comply with AS/NZS 1067:2003.

### 17 Variation of AS/NZS 1067:2003

For the purposes of this Division, AS/NZS 1067:2003 is taken to have been amended as follows:

- (a) by omitting Clauses 1.1 and 1.2,
- (b) by inserting at the end of Clause 2.6:

Only lenses with transparent labels, decorations or markings (other than those intended to be removed before use) within the area of the two ellipses defined in Clause 3.2.1 must meet the requirements of this Clause when tested in accordance with Appendix G. (See also Clause 3.2.2.)
- (c) by omitting Clauses 2.7 and 2.8,
- (d) by inserting at the end of Clause 3.2.2:

NOTE: Lenses with holograms or other transparent images applied to the outer (non-eye) side of the lens would

Fair Trading Regulation 2007

Clause 18

Product safety standards

Part 2

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generally pass the requirements of Clause 3.2.2 provided that the other requirements of the standard are met, in particular Clauses 2.2.2 (Transmittance matching for pairs of sunglass lenses of all types), 2.2.3 (Uniformity of colour for pairs of sunglass lenses of all types) and 2.6 (Scattered light).

- (e) by omitting Clauses 3.3 and 3.6,
- (f) by omitting Clause 4.1.1 (c),
- (g) by inserting “or” after “sunglass frame,” in Clause 4.2.1,
- (h) by omitting Clause 4.2.2.

## Division 5 Pedal bicycles

### 18 Definitions

In this Division:

**AS/NZS 1927** means the Australian/New Zealand Standard entitled AS/NZS 1927:1998, *Pedal bicycles—Safety requirements*, as published jointly by Standards Australia and Standards New Zealand on 5 September 1998.

**pedal bicycle** means a two-wheeled pedal vehicle that is designed to be solely human-powered, and includes a fully assembled or partially assembled bicycle, but does not include any such vehicle:

- (a) that has a wheelbase of less than 640 millimetres, or
- (b) that is designed, promoted and supplied primarily for use in cycling competitions, or
- (c) that is a one-of-a-kind bicycle, being a bicycle that is uniquely constructed to the specifications of an individual consumer, or
- (d) that is designed to be hinged or folded, or to be taken apart beyond removal of the front wheel, for ease of storage or portability, or
- (e) that is a tandem bicycle, or
- (f) that is a second-hand bicycle.

### 19 Safety standard

The product safety standard prescribed for pedal bicycles is that they must comply with AS/NZS 1927.

### 20 Variation of AS/NZS 1927

For the purposes of this Division, AS/NZS 1927 is taken to have been amended as follows:

Clause 21 Fair Trading Regulation 2007

Part 2 Product safety standards

- 
- (a) by omitting Clause 1.2,
  - (b) by omitting from Clause 1.3 the words “New Zealand Traffic Regulations 1976”,
  - (c) by omitting from Clause 1.5 (a) the words “or New Zealand”,
  - (d) by omitting Clause 2.15.1,
  - (e) by omitting from Clause 2.16 the words “NOTE: There is no regulatory requirement in New Zealand for a warning device to be fitted to a bicycle.”,
  - (f) by omitting Clause 2.17.1.

## Division 6 Protective helmets for pedal cyclists

### 21 Definitions

In this Division:

**AS/NZS 2063** means the Australian/New Zealand Standard entitled AS/NZS 2063:1996, *Pedal cycle helmets* published jointly by Standards Australia and Standards New Zealand on 5 May 1996, as amended by Amendment No 1 of 5 November 1996.

**AS/NZS 2512.1** means the Australian/New Zealand Standard entitled AS/NZS 2512.1:1998, *Methods of testing protective helmets, Method 1: Definitions and headforms*, as published jointly by Standards Australia and Standards New Zealand on 5 September 1998.

**protective helmet** means a helmet designed to mitigate the adverse effects of a blow to the head.

**Snell standard** means the standard entitled *1995 Standard For Protective Headgear For Use In Bicycling* including the Child Helmet Addendum To Standards For Protective Headgear published by the Snell Memorial Foundation of the United States of America.

**Note.** This standard is available on the website of the Snell Memorial Foundation at [www.smf.org](http://www.smf.org).

### 22 Safety standard

The product safety standard prescribed for protective helmets for pedal cyclists is that they must comply with:

- (a) AS/NZS 2063, or
- (b) the Snell standard.

### 23 Exceptions

- (1) This Division does not apply to the following helmets:
  - (a) helmets that are of a size too small to be fitted to Headform A (as specified in Table 2 in AS/NZS 2512.1),

Fair Trading Regulation 2007

Clause 24

Product safety standards

Part 2

- 
- (b) helmets that are designed and constructed principally for use by cyclists engaged in competitive racing and that are marked in accordance with subclause (2),
  - (c) helmets that are designed and constructed principally for use as toys and that are marked in accordance with subclause (3), or that are not so marked but are unlikely to be mistaken for helmets providing significant protection against impact.
- (2) In the case of a helmet of the kind referred to in subclause (1) (b), the words “WARNING: racing headgear only—inadequate impact protection for normal road use” must be marked clearly and legibly in a conspicuous position:
- (a) on the helmet or on a label attached to the helmet, and
  - (b) on a principal outer display face of any packaging in which the helmet is supplied,
- with the word “WARNING” in upper case letters at least 5 millimetres high and the remaining words in letters at least 2.5 millimetres high.
- (3) In the case of a helmet of the kind first referred to in subclause (1) (c), the words “WARNING: toy helmet only—do not use as safety headgear” must be marked clearly and legibly in a conspicuous position:
- (a) on the helmet or on a label attached to the helmet, and
  - (b) on a principal outer display face of any packaging in which the helmet is supplied,
- with the word “WARNING” in upper case letters at least 5 millimetres high and the remaining words in letters at least 2.5 millimetres high.

#### 24 Variation of AS/NZS 2063

For the purposes of this Division, AS/NZS 2063 is taken to have been amended as follows:

- (a) by omitting Clause 1,
- (b) by inserting after Clause 5.6 the following:

##### 5.7 BMX helmets

Helmets designed and constructed principally for use by cyclists engaged in BMX competition racing need not comply with provisions regarding ventilation openings or type testing.

- (c) by omitting Clause 8.1 (e).



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## 25 Variation of Snell standard

A person is not required to comply with a provision of the Snell standard that requires the person to obtain third party certification of a helmet.

## Division 7 Protective helmets for motor cyclists

### 26 Definitions

In this Division:

*AS 1698* means the Australian Standard entitled AS 1698—1988, *Protective helmets for vehicle users*, as published by Standards Australia on 9 May 1988.

*protective helmet* means a helmet designed to mitigate the adverse effects of a blow to the head.

### 27 Safety standard

The product safety standard prescribed for protective helmets for use by motor cyclists is that they must comply with AS 1698.

### 28 Variation of AS 1698

For the purposes of this Division, AS 1698 is taken to have been amended as follows:

- (a) by omitting from Clause 4.4 the matter “AS 1609” and by inserting instead the matter “AS 1609—1981”,
- (b) by omitting Clause 8 (g).

## Division 8 Children’s toys

### 29 Definitions

In this Division:

*AS/NZS ISO 8124* means the Australian/New Zealand Standard entitled AS/NZS ISO 8124.1:2002, *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties* (ISO 8124-1:2000, MOD) as published jointly by Standards Australia and Standards New Zealand on 16 May 2002.

*children’s toys* means toys for children under 3 years of age, being objects or groups of objects manufactured, designed, labelled or marketed as playthings for a child or children of an age less than 3 years, including but not limited to:

- (a) rattles, toy dummies, teething rings and squeeze toys, and
- (b) toys to be affixed to a crib, stroller, playpen or baby carriage, and
- (c) pull and push toys, pounding toys, blocks and stacking toys, and

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- (d) toys for use in bath-tubs, and
  - (e) rocking, spring and stick horses and other figures, and
  - (f) musical chime toys and jacks-in-the-box, and
  - (g) stuffed, plush and flock animals and other figures, and
  - (h) toys with pompoms, and
  - (i) games, puzzles and dolls, and
  - (j) toy cars, trucks and other vehicles,
- but not including:
- (k) balloons, marbles, tapes and compact discs, or
  - (l) books, or
  - (m) writing materials, including crayons, chalk, pencils and pens, or
  - (n) paints (including finger paints and water paints), paint brushes and other painting implements, or
  - (o) modelling materials, including clay, plasticine and play-dough, or
  - (p) flotation aid toys, or
  - (q) pacifiers, or
  - (r) bicycles having a wheelbase of at least 640 millimetres, or
  - (s) toys that are made wholly from highly porous fabric material such as cheesecloth, except toys with pompoms, or
  - (t) playground equipment for parks, schools and domestic use (including swings, see-saws, slides, agility apparatus, climbing, swinging, rotating and rocking apparatus, cubby houses, sand pits, apparatus for use in sand, sliding poles and ladders), or
  - (u) goods supplied in a wholly or partially unassembled state for assembly by an adult after supply, provided that, when assembled in accordance with the instructions supplied in writing with the goods, the goods comply with the requirements of this Division, or
  - (v) toys made from closed cell polyethylene, ethylene vinyl acetate or like material with the word "WARNING" in red upper case letters at least 5 millimetres high on a white background adjacent to the words "NOT SUITABLE FOR CHILDREN UNDER 3 YEARS AS FOAM PIECES MAY BREAK OFF AND CAUSE A CHOKING HAZARD" in red upper case letters at least 2.5 millimetres high on a white background marked legibly in a conspicuous position:
    - (i) on the toys, or

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- (ii) if the toys are displayed in packaging for retail sale—on a principal outer display face of the packaging in which the toys are displayed.

**Note.** Guidance for establishing age grades within the scope of the consumer product safety standards prescribed in this Division can be found in Annex B of AS/NZS ISO 8124. Guidance is also available in the publication issued by the United States Consumer Product Safety Commission (CPSC) *Age Determination Guidelines: Relating Children's Ages To Toy Characteristics and Play Behavior*. The most recent edition of this publication is available from the CPSC site on the Internet and can be downloaded free of charge ([www.cpsc.gov](http://www.cpsc.gov)).

### 30 Safety standard

The product safety standard prescribed for children's toys is that they must comply with AS/NZS ISO 8124.

### 31 Variation of AS/NZS ISO 8124

For the purposes of this Division, AS/NZS ISO 8124 is taken to have been amended as follows:

- (a) by omitting clauses 1 and 2,
- (b) by omitting from clause 3.21 the words "or damage to property or the environment",
- (c) by omitting clauses 3.52 and 4.3,
- (d) by omitting from clause 4.4.1 the word "intended" where firstly occurring,
- (e) by omitting clause 4.4.2,
- (f) by omitting from clause 4.5.1 the word "intended" where firstly occurring,
- (g) by omitting from paragraph (a) of clause 4.5.2 the word "intended",
- (h) by omitting paragraph (b) of clause 4.5.2,
- (i) by omitting from clause 4.5.3 the word "intended",
- (j) by omitting from clause 4.5.4 the word "intended",
- (k) by omitting from clause 4.5.5 the word "intended",
- (l) by omitting the note to clause 4.5.5,
- (m) by omitting clauses 4.5.6–4.24, 4.25 (d), 4.26 and 4.27,
- (n) by omitting from clause 5.1 the matter "36 months and" and by inserting instead the matter "36 months.",
- (o) by omitting from clause 5.1 the following matter:
  - from 37 months up to and including 96 months of age.

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- (p) by omitting from clause 5.1 the words “intended or appropriate for children up to and including 96 months” and by inserting instead the words “appropriate for children up to and including 36 months”,
  - (q) by omitting from clause 5.1 the words “Toys reasonably intended to be assembled by an adult and not intended to be taken apart by a child shall be tested only in the assembled state if the packaging and the assembly instructions prominently indicate that the article is to be assembled only by an adult.”,
  - (r) by omitting from the heading to clause 5.2 the matter “4.3.2, 4.4, 4.18.2” and by inserting instead the matter “4.4”,
  - (s) by omitting from clause 5.2 the words “any orientation” and by inserting instead the words “all possible orientations”,
  - (t) by omitting clauses 5.7–5.19, 5.21 and 5.22,
  - (u) by omitting from clause 5.23 the word “intended”,
  - (v) by omitting note 1 to clause 5.23,
  - (w) by omitting from clause 5.24.1 the words “Unless otherwise stated, these tests are only applicable for toys intended for children up to and including 96 months.”,
  - (x) by omitting from Table 4 to clause 5.24.2 the matter “96” and by inserting instead the matter “36”,
  - (y) by omitting clause 5.24.4,
  - (z) by omitting from clause 5.24.6.2 the word “beanbags” and by inserting instead the words “beanbag-type toys (ie a toy that contains plastic pellets, beads, polystyrene balls or similar materials)”,
  - (aa) by omitting clause 5.24.6.4,
  - (ab) by omitting from clause 5.24.7 the words “according to the age group for which the toy is intended”,
  - (ac) by omitting from Table 5 to clause 5.24.7 the row applying to the age category of 37 months up to and including 96 months,
  - (ad) by omitting from clause 5.24.7 the words “required force” and by inserting instead the words “force in Table 5”,
  - (ae) by omitting clause 5.24.8,
  - (af) by omitting Annex A.1, A.2.1 and A.2.2,
  - (ag) by omitting from Annex A.2.3 the words “The batteries shall not be accessible when tested according to 5.7 (accessibility of a part or component).”,
  - (ah) by omitting Annex A.2.4–A.2.10,

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- (ai) by omitting from Annex B.1 the matter “[12]” and by inserting instead the words “the publication issued by the United States Consumer Product Safety Commission (CPSC) *Age Determination Guidelines: Relating Children’s Ages To Toy Characteristics and Play Behavior*”,
  - (aj) by omitting from Annex B.4.1 the words “Age grades are indicators of average development, which does not necessarily reflect suitability for the exceptional child. A parent remains the best judge of whether the child is at the appropriate development stage for safe play with a particular toy.”,
  - (ak) by omitting Annexes B.4.4, C and D,
  - (al) by omitting Annex F, the Bibliography and Appendix ZZ.

## Division 9 Flotation toys and swimming aids

### 32 Definitions

In this Division:

**AS 1499** means the Australian Standard entitled AS 1499—1996, *Personal flotation devices—Type 2*, as published by Standards Australia on 5 January 1996.

**AS 1512** means the Australian Standard entitled AS 1512—1996, *Personal flotation devices—Type 1*, as published by Standards Australia on 5 January 1996.

**AS 1900** means the Australian Standard entitled AS 1900—1991, *Flotation toys and swimming aids for children* published by Standards Australia on 16 September 1991, as amended by Amendment No 1 of 16 August 1993.

**children’s flotation toys and swimming aids** means flotation toys and swimming aids likely to be used by children of any age less than 15 years in recreational activities or to assist in swimming tuition, including but not limited to:

- (a) rings, partial rings, arm bands, and kick boards, that are inflatable, hollow moulded or made substantially from expanded foam, and
  - (b) inflatable toy boats having fewer than 3 separate chambers, or having a length and width the sum of which is less than 3 metres, and
  - (c) swimming vests and flotation bubbles,
- but not including:
- (d) goods for therapeutic use by disabled persons, or

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- (e) goods for use as life jackets that comply, or that comply substantially, with AS 1512, or
- (f) goods for use as buoyancy vests that comply, or that comply substantially, with AS 1499, or
- (g) goods for use primarily as a means of flotation for persons in water and in need of rescue, including goods carried in or on ships or boats for such a purpose.

### 33 Safety standard

The product safety standard prescribed for children's flotation toys and swimming aids is that they must comply with AS 1900.

### 34 Variation of AS 1900

For the purposes of this Division, AS 1900 is taken to have been amended by omitting Clause 1.1.

## Division 10 Children's nightwear and paper patterns for children's nightwear

### 35 Definitions

In this Division:

**AS 1182** means the Australian Standard entitled AS 1182—1997, *Size coding scheme for infants' and children's clothing—Underwear and outerwear*, as published by Standards Australia on 5 March 1997.

**AS/NZS 1249:1999** means the Australian/New Zealand Standard entitled AS/NZS 1249:1999, *Children's nightwear and limited daywear having reduced fire hazard*, as published jointly by Standards Australia and Standards New Zealand on 5 April 1999.

**AS/NZS 1249:2003** means the Australian/New Zealand Standard entitled AS/NZS 1249:2003, *Children's nightwear and limited daywear having reduced fire hazard*, as published jointly by Standards Australia and Standards New Zealand on 29 December 2003.

**children's nightwear** includes children's dressing-gowns, pyjamas, pyjama-style overgarments, nightdresses, nightshirts, bathrobes and infant sleepbags, and garments such as all-in-ones and boxer shorts that may be suitable for daywear or nightwear, of any of the sizes 00–14 (as specified in AS 1182), but does not include t-shirts and any article of headwear, leggings (either with or without feet), footwear or handwear.

**ISO 6941** means the International Standard entitled *Textile fabrics—Burning behaviour—Measurement of flame spread properties of vertically oriented specimens* and numbered ISO 6941:1984, published

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by the International Organization for Standardization on 15 August 1984, as amended by Amendment 1 of 15 October 1992.

**36 Safety standard for children's nightwear**

- (1) Up to and including 29 February 2008, the product safety standard prescribed for children's nightwear is that it must comply with AS/NZS 1249:1999 or AS/NZS 1249:2003.
- (2) From 1 March 2008, the product safety standard prescribed for children's nightwear is that it must comply with AS/NZS 1249:2003.

**37 Safety standard for paper patterns for children's nightwear**

- (1) Up to and including 29 February 2008, the product safety standard prescribed for paper patterns for children's nightwear is that they must comply with:
  - (a) Clauses 0.2 and 5.6 of AS/NZS 1249:1999, or
  - (b) Clauses 0.2 and 5.6 of AS/NZS 1249:2003.
- (2) From 1 March 2008, the product safety standard prescribed for paper patterns for children's nightwear is that they must comply with Clauses 0.2 and 5.6 of AS/NZS 1249:2003.
- (3) The definitions in Clause 0.5.2, 0.5.3, 0.5.6 and 0.5.10 of AS/NZS 1249:1999 and AS/NZS 1249:2003 apply for the purposes of this clause.

**38 Variation of AS/NZS 1249:1999 and AS/NZS 1249:2003**

- (1) For the purposes of clause 36, AS/NZS 1249:1999 is taken to have been amended as follows:
  - (a) by omitting the second sentence from Clause 0.1,
  - (b) by omitting Clause 1.2 (a) and the Note to that paragraph and by inserting instead the following paragraph and Note:
    - (a) *Flame spread time* When tested in accordance with ISO 6941 the flame spread time must be 12 s or greater in the lengthwise direction and the widthwise direction, and no one determination of the time to burn a test specimen must be less than 10 s in either the lengthwise direction or the widthwise direction. These requirements must be met before and after washing in accordance with Appendix D. Where there is insufficient fabric for three lengthwise and three widthwise test specimens, as cited in Clause 8.7 of ISO 6941, the flame spread

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time must be determined on three lengthwise specimens only.

Where the textile materials or garments are constructed with one fabric overlaying another (for example, quilted fabrics), specimens must be cut and tested as a combination, that is to say as if the overlay were applied to the under fabric.

Where there is insufficient length of sample to cut test specimens in one piece, not more than two pieces per specimen, cut in the same direction, may be butt-jointed but not overlapped. The butt-joint must be secured with five light weight staples spaced evenly across the test specimen. The joint must not be below the centre of the specimen when attached to the vertical test frame specified in ISO 6941.

If, after a repeat test, as required by the relevant clause of ISO 6941, three or more specimens fail to burn to the third marker thread in the lengthwise direction, and three or more specimens fail to burn to the third marker thread in the widthwise direction, the material must be deemed to have passed the flame spread time test.

**Note.** If in any one set of three specimens, one result exceeds the lowest result by 50 percent for no apparent reason, or, if one or two specimens fail to reach one of the marker threads, another specimen is required to be tested for that direction or face.

- (c) by omitting the words “Other trims shall meet the following requirements:” from Clause 1.3 and by inserting instead the following words:

The outer fabric of a composite or appliqued area must be considered the fabric face and must be tested so that the flame impinges on that surface. Other trims must meet the following requirements:

- (d) by omitting Clause 5.6.

- (2) For the purposes of clause 36, AS/NZS 1249:2003 is taken to have been amended as follows:

- (a) by omitting the second sentence from Clause 0.1,  
 (b) by omitting Clause 1.2 (a) and the Note to that paragraph and by inserting instead the following paragraph and Note:  
 (a) *Flame spread time* When tested in accordance with ISO 6941 the flame spread time must be 12 s or



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greater in the lengthwise direction and the widthwise direction, and no one determination of the time to burn a test specimen must be less than 10 s in either the lengthwise direction or the widthwise direction. These requirements must be met before and after washing in accordance with Appendix D.

Where there is insufficient length of sample to cut test specimens in one piece, not more than two pieces per specimen, cut in the same direction, may be butt-jointed but not overlapped. The butt-joint shall be secured with five light weight staples spaced evenly across the test specimen. The joint shall not be below the centre of the specimen when attached to the vertical test frame specified in ISO 6941.

If, after a repeat test, as required by the relevant clause of ISO 6941, three or more specimens fail to burn to the third marker thread in the lengthwise direction, and three or more specimens fail to burn to the third marker thread in the widthwise direction, the material must be deemed to have passed the flame spread time test.

**Note.** If in any one set of three specimens, one result exceeds the lowest result by 50 percent for no apparent reason, or, if one or two specimens fail to reach one of the marker threads, another specimen is required to be tested for that direction or face.

- (c) by omitting the words “Other trims shall meet the following requirements:” from Clause 1.3 and by inserting instead the following words:
    - The outer fabric of a composite or applied area must be considered the fabric face and must be tested so that the flame impinges on that surface. Other trims must meet the following requirements:
  - (d) by omitting the words “Grey Scale 4” from clause 5.4 (b) (iii) and by inserting instead the words “Grey Scale 3”,
  - (e) by omitting the words “not less than 4” from clause 5.5 (g) and by inserting instead the words “not less than 3”,
  - (f) by omitting Clause 5.6.
- (3) For the purposes of clause 37, AS/NZS 1249:1999 is taken to have been amended as follows:
- (a) by omitting the Notes to Clause 0.5.3,

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- (b) by omitting the words “(See Note 1 to Clause 0.1)” from Clause 0.5.10,
  - (c) by omitting the words “shall bear a warning paragraph” from Clause 5.6 and by inserting instead the words “must bear a clearly legible warning paragraph”.
- (4) For the purposes of clause 37, AS/NZS 1249:2003 is taken to have been amended as follows:
- (a) by omitting the Notes to Clause 0.5.3,
  - (b) by omitting the words “(See Note 1 to Clause 0.1)” from Clause 0.5.10,
  - (c) by omitting the words “shall bear a warning paragraph” from Clause 5.6 and by inserting instead the words “must bear a clearly legible warning paragraph”.

### 39 Variation of ISO 6941

ISO 6941 is taken to have been amended as follows:

- (a) by omitting the words “test another set of three specimens for that direction or face” from Clause 8.8 wherever occurring and by inserting instead “test another specimen for that direction or face”,
- (b) by omitting Clause 10 k) 4) and by inserting instead the following:
  - 4) if only four specimens are tested, determine the mean from all the results that burn to the respective marker threads. Report the number of specimens that failed to burn to the marker.

## Division 11 Child restraints

### 40 Definitions

In this Division:

*AS 1754—1975* means the Australian Standard entitled AS 1754—1975, *Child Restraints for Passenger Cars and Derivatives*, as amended by Amendment No 1 of February 1976, Amendment No 2 of March 1978, Amendment No 3 of July 1979, the Corrigendum published on 1 November 1979 and Amendment No 4 of July 1985.

*AS 1754—1991* means the Australian Standard entitled AS 1754—1991, *Child restraint systems for use in motor vehicles* published on 24 December 1991, as amended by Amendment No 1 of 12 October 1992 and Amendment No 2 of 15 February 1993.

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*chaise* means a device used for raising a child's position in a motor vehicle or adapting an adult seat belt to make it suitable for a child, being a device having a back above the seating plane.

*child restraint* means a device designed to reduce the risk of bodily injury to a child passenger in a motor vehicle in the event of a motor vehicle impact and includes:

- (a) components designed to restrain the child in the device, and
- (b) components to anchor the device to the motor vehicle, and
- (c) (if supplied) components to restrain a motor vehicle seat, and
- (d) chaises, and
- (e) cushions,

but does not include a child restraint that is an integrated feature of a motor vehicle.

*cushion* means a device used for raising a child's position in a motor vehicle or adapting an adult seat belt to make it suitable for a child, being a device having no back above the seating plane.

#### **41 Safety standard for child restraints**

The product safety standard prescribed for child restraints is that they must comply with AS 1754—1991.

#### **42 Variation of AS 1754—1991**

For the purposes of this Division, AS 1754—1991 is taken to be amended as follows:

- (a) by omitting from Clause 1.1 the words “passenger cars and their derivatives,” and by inserting instead the words “motor vehicles,”,
- (b) by omitting the second sentence from Clause 1.1,
- (c) by omitting Clause 2.4 and 2.5.

#### **43 Supply of components for child restraints complying with AS 1754—1975**

For the purposes of this Division, components for a child restraint that is made to the requirements of AS 1754—1975 must comply with the relevant requirements of AS 1754—1975.

### **Division 12 Bean bags**

#### **44 Definitions**

- (1) In this Division:

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**bean bag** means a cushion or similar item that consists of a bag or cover surrounding bean bag filling, and includes a bean bag for use in a swimming pool.

**bean bag cover** means a bag or cover capable of being filled with bean bag filling and that, if filled with bean bag filling, would constitute a bean bag and includes a bag or cover intended as a separate inner lining.

**bean bag filling** means pellets, or small particles of polystyrene or other similar synthetic material capable of being used as filling for a cushion, but does not include any such pellets or particles when they are mixed with material that is not capable of being so used.

**child resistant slide-fastener** means a slide-fastener having a sliding piece of a kind referred to in the definition of **slide-fastener** that:

- (a) does not have attached to it any tag, handle or other object that would facilitate the movement of the sliding piece, and
- (b) incorporates a locking mechanism that prevents the sliding piece opening the slide-fastener unless a wholly separate device is used to disengage the locking mechanism and act as a handle in the moving of the sliding piece between the teeth of the slide-fastener.

**package** means a bag, box or other similar container, but does not include a bean bag cover.

**slide-fastener** means a device comprising two sets of teeth, each set of teeth being located on adjacent edges of the device, and having an attached sliding piece that, when moved between the two sets of teeth, causes one set of teeth to interlock or cease to interlock with the other set of teeth.

- (2) If a slide-fastener has more than one sliding piece of a kind referred to in the definition of **slide-fastener** in subclause (1), a reference in the definition of **child resistant slide-fastener** in that subclause to a sliding piece includes, in relation to that slide-fastener, a reference to each of those sliding pieces.

#### 45 Safety standard

- (1) The product safety standard prescribed for a bean bag or a bean bag cover is that:
  - (a) it must bear a label that:
    - (i) is secured to the bag or cover in such a manner that the label will, despite normal handling, remain fixed to the bag or cover, and
    - (ii) contains the following warning:  
WARNING. Small Light-weight Beads Present A Severe Danger To Children If Swallowed Or Inhaled.

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- (b) it must be constructed so that any opening through which bean bag filling may be inserted or removed is fitted with a child resistant slide-fastener.
  - (2) The product safety standard prescribed for a package containing bean bag filling is that it must bear a label that:
    - (a) is secured to the package in such a manner that the label will, despite normal handling, remain fixed to the package, and
    - (b) contains the warning referred to in subclause (1) (a) (ii).
  - (3) The warning referred to in subclause (1) (a) (ii):
    - (a) must be printed in red letters at least 5 millimetres high on a white background, and
    - (b) must have the word “WARNING” printed in upper case letters and the remaining words printed in upper and lower case letters.

### Division 13 Elastic luggage straps

#### 46 Definition

In this Division:

***elastic luggage strap*** means an elastic strap or cord, or 2 or more elastic straps or cords, permanently joined and:

- (a) having a hook, buckle or other fastening device at each extremity, and
- (b) designed to be used for the purpose of securing luggage or other objects,

but does not include:

- (c) elasticised cargo nets, or
- (d) elasticised straps specifically made for the purpose of securing a vehicle jack or toolkit within a vehicle.

#### 47 Safety standard

- (1) The product safety standard prescribed for elastic luggage straps is that they must have a label permanently affixed to them bearing the following warning:  
WARNING. Avoid eye injury. DO NOT overstretch. ALWAYS keep face and body out of recoil path. DO NOT use when strap has visible signs of wear or damage.
- (2) A label referred to in subclause (1):
  - (a) must bear the word “WARNING” in upper case black letters at least 4 millimetres high on a yellow background, and

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- (b) must bear the words “DO NOT” and “ALWAYS” in upper case black letters at least 2 millimetres high on a yellow background, and
  - (c) must bear the remaining words in lower case black letters at least 2 millimetres high on a yellow background, and
  - (d) must be clearly displayed.

## Division 14 Projectile toys

### 48 Definitions

In this Division:

*AS/NZS ISO 8124* means the Australian/New Zealand Standard entitled AS/NZS ISO 8124.1:2002, *Safety of toys, Part 1: Safety aspects related to mechanical and physical properties* (ISO 8124-1:2000, MOD) as published jointly by Standards Australia and Standards New Zealand on 16 May 2002.

*discharge mechanism* has the same meaning as in AS/NZS ISO 8124.

*improvised projectile* means a pen, pencil, marker, pen or marker cap, paper clip, pen or biro refill, battery, marble, pebble, stone, coin or nail.

*projectile* has the same meaning as in AS/NZS ISO 8124.

*projectile toy with stored energy* has the same meaning as in AS/NZS ISO 8124.

*projectile toy without stored energy* has the same meaning as in AS/NZS ISO 8124.

### 49 Safety standard

- (1) The product safety standard prescribed for projectile toys with stored energy is that they must comply with the requirements of clause 4.18.2 of AS/NZS ISO 8124.
- (2) The product safety standard prescribed for projectile toys without stored energy is that they must comply with the requirements of clause 4.18.3 of AS/NZS ISO 8124.

### 50 Variation of AS/NZS ISO 8124

For the purposes of this Division, AS/NZS ISO 8124 is taken to be amended as follows:

- (a) by omitting clause 4.18.2 (a) (3),
- (b) by omitting clause 4.18.2 (b),
- (c) by omitting clause 4.18.2 (c) and by inserting instead:

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(c) The discharge mechanism of the toy must not, without modification by the user, be able to discharge an improvised projectile so that it propels the projectile in free flight for a horizontal distance that exceeds 300mm when discharged at a vertical height of 300mm.

(d) by omitting clause 4.18.3 (e).

## Division 15 Baby walkers

### 51 Definition

In this Division:

***baby walker*** means a device that consists of a frame on wheels designed to support, inside the frame and with the child's feet touching the ground, a child who has not learned to walk, being a device that is propelled by the movement of the child.

***F 977-00*** means the United States Standard entitled *Standard Consumer Safety Specification for Infant Walkers* approved on 10 April 2000 and published in July 2000 by ASTM (the American Society for Testing and Materials).

### 52 Safety standard

The product safety standard prescribed for baby walkers is that they must comply with Sections 6.1, 6.4 and 9.3 of F 977-00.

## Division 16 Disposable cigarette lighters

### Subdivision 1 Preliminary

#### 53 Definitions

In this Division:

***adjustable lighter*** means a lighter with provision for flame height adjustment.

***American Standard*** means the *Consumer Product Safety Standard for Cigarette Lighters* (16 CFR 1210):

- (a) set out in Part 1210, Title 16 of the *Code of Federal Regulations*, and
- (b) published in the Federal Register of the United States of America, Volume 58, No 131, on 12 July 1993 and revised as of 1 January 2001.

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*customs value* of a device means the customs value determined for the device under section 159 of the *Customs Act 1901* of the Commonwealth.

*disposable lighter*—see clause 54 (4).

*ex works agreement* means an agreement for the supply of goods under which the supplier's obligation to deliver the goods is fulfilled when the supplier makes the goods available to the buyer at the supplier's premises.

*indexed amount*—see clause 68.

*lighter*—see clause 54.

*non adjustable lighter* means a lighter with no provision for flame height adjustment.

*novelty lighter*—see clause 54 (5).

*refillable lighter*—see clause 54 (6).

*safe operation* means the operation of a lighter so that it:

- (a) does not spit or sputter, and
- (b) does not produce an abnormal or unsafe flame, and
- (c) cannot be operated easily by a young child.

*spit or sputter* for a flame produced by a lighter means the escape of liquid fuel from the lighter producing burning liquid droplets that separate from the flame.

*the Table* means the Table to this Division.

*young child* means an individual who is under 5 years of age.

#### 54 Meaning of “lighter” and types of lighters

- (1) A *lighter* is a flame producing device that:
  - (a) is designed to light cigarettes, cigars and pipes, and
  - (b) is an eligible device.
- (2) For the purposes of subclause (1), a flame producing device is an *eligible device* if:
  - (a) it is designed to be discarded when its fuel supply is exhausted, or
  - (b) it is designed to incorporate a separate container of fuel that is designed to be discarded when empty, or
  - (c) it is designed to have an entertaining audio or visual effect (other than production of a flame), or

**Note.** An example of paragraph (c) is a device that plays musical notes or displays flashing lights.



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- (d) it is designed to depict or resemble, in physical form or function, an article commonly recognised as appealing to, or intended for use by, a young child.

**Note.** Examples of paragraph (d) include a beverage, cartoon character, food, gun, musical instrument, toy, toy animal, watch or vehicle.

- (3) For the purposes of subclause (1), a flame producing device is also an *eligible device* if:
- (a) it is designed to be refilled with fuel, and
  - (b) its value is not more than the relevant amount.
- (4) A *disposable lighter* is a lighter that is an eligible device referred to in subclause (2) (a) or (b).
- (5) A *novelty lighter* is a lighter that is an eligible device referred to in subclause (2) (c) or (d).
- (6) A *refillable lighter* is a lighter that is an eligible device referred to in subclause (3).
- (7) For the purposes of subclause (3):
- relevant amount* means:
- (a) for a device imported into Australia, or supplied under an ex works agreement, before 1 August 2003—\$5, or
  - (b) for a device imported into Australia, or supplied under an ex works agreement, on or after 1 August 2003—the indexed amount.
- value* of a device means:
- (a) for a device imported into Australia—its customs value, or
  - (b) for another device—its supply price.

## 55 Safety standard

The product safety standard prescribed for lighters is that they must comply with the requirements of this Division.

## Subdivision 2 Flame testing, structural safety and labelling

### 56 Application of this Subdivision

This Subdivision does not apply to a lighter that:

- (a) is a novelty lighter, and
- (b) is not a disposable lighter or a refillable lighter.

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**57 Testing procedures**

When a lighter is tested in accordance with the procedures described in Part 2, 3, 4, 5 or 6 of the Table, the test must be performed in accordance with the procedures described in Part 1 of the Table.

**58 Ignition and adjustment of flame**

- (1) A lighter must be designed so that deliberate action is necessary to ignite and sustain a flame.
- (2) An adjustable lighter must be designed so that deliberate action is necessary to adjust the height of the flame.

**59 Abnormal burning**

A lighter, after being tested in accordance with Parts 4–6 of the Table, must not, when tested in accordance with Parts 2 and 3 of the Table, spit or sputter or produce an abnormal or unsafe flame.

**60 Flame height**

- (1) A lighter must comply with subclause (2) when tested in accordance with Part 2 of the Table:
  - (a) after being tested in accordance with Part 4 or 5 of the Table, or
  - (b) after being tested in accordance with Parts 4 and 5 of the Table.
- (2) For the purposes of subclause (1), the height of the flame produced by a lighter must not exceed:
  - (a) in the case of a non-adjustable lighter, 50 millimetres, and
  - (b) in the case of an adjustable lighter:
    - (i) where the lighter is adjusted to produce the maximum flame height, 150 millimetres, and
    - (ii) where the lighter is adjusted to produce the minimum flame height, 100 millimetres.
- (3) If the flame height of an adjustable lighter has not been adjusted after being supplied in trade or commerce, the lighter must not, when first used after being supplied, produce a flame exceeding 125 millimetres in height.

**61 Flame extinction**

- (1) A lighter must comply with subclause (2) after being tested in accordance with the procedures described in Parts 3–5 of the Table.
- (2) For the purposes of subclause (1), where:
  - (a) a non-adjustable lighter produces a flame for 10 seconds, or

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- (b) an adjustable lighter:
  - (i) produces a flame for 5 seconds at the maximum flame height adjustment, or
  - (ii) produces a flame for 10 seconds at the minimum flame height adjustment,

the flame produced must extinguish after cessation of the action sustaining the flame within two seconds if the lighter has no flameguard or four seconds if it has a flameguard.

## 62 Structural safety

- (1) A lighter must have no sharp external edges.
- (2) A lighter, when tested in accordance with Part 3, 4 or 5 of the Table, must not be damaged so as to affect its safe operation.
- (3) A lighter, when tested in accordance with Part 4 of the Table, must not spontaneously ignite.
- (4) The internal pressure of the fuel reservoir of a lighter when tested in accordance with Part 6 of the Table must not suddenly decrease.

## 63 Labelling

- (1) A lighter must incorporate (as a permanent part of the lighter) in a legible form:
  - (a) the name or other identification of the manufacturer or distributor of the lighter, and
  - (b) where the lighter is an adjustable lighter, symbols indicating the direction in which force is to be applied to increase or decrease the flame height and the effect of the application of force in that direction.
- (2) In addition to subclause (1), either:
  - (a) the following information that is enclosed by inverted commas must be displayed in a legible form on a lighter, or on an adhesive label that is affixed to the lighter:
    - (i) "WARNING" in upper case letters and adjacent to the words that must be displayed under subparagraphs (ii)–(ix),
    - (ii) "KEEP AWAY FROM CHILDREN" or "KEEP OUT OF REACH OF CHILDREN" in upper case letters,
    - (iii) "Ignite lighter away from face and clothing",
    - (iv) "Never expose to heat above 50°C or to prolonged sunlight",
    - (v) "Never puncture or put in fire",

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- (vi) for a lighter that contains flammable gas under pressure—“Contains flammable gas under pressure”,
  - (vii) for a lighter that contains flammable liquid—“Contains flammable liquid”,
  - (viii) for a self-extinguishing lighter—“Be sure flame is out after use”,
  - (ix) for a non-self-extinguishing lighter—“This lighter does not extinguish itself—close the cover to put out”, or
- (b) if a lighter is contained in a package when it is sold at retail—the information in paragraph (a) must be displayed in a legible form on the package.

### **Subdivision 3 Child resistance**

#### **64 Application of this Subdivision**

This Subdivision applies only to a lighter to which the American Standard would apply if the lighter were imported into the United States of America after 12 July 1994.

#### **65 Child resistance**

- (1) A lighter must be of a kind that has been:
  - (a) tested in the manner set out in section 1210.4 of the American Standard, and
  - (b) shown to be resistant to successful operation by at least 85 per cent of the child-test panel when tested in that manner.
- (2) The mechanism or system of a lighter that is designed or intended to make the lighter resistant to successful operation by at least 85 per cent of the child-test panel must:
  - (a) reset itself automatically after each operation of the ignition mechanism of the lighter, and
  - (b) not impair safe operation of the lighter when used in a normal and convenient manner, and
  - (c) be effective for the functional life of the lighter, and
  - (d) not be easily overridden or deactivated.

#### **66 Certification**

A certificate of compliance, within the meaning of the American Standard, must have been issued for the lighter in accordance with that Standard.

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## Subdivision 4 Indexation

### 67 Definitions

In this Division:

**CPI number** means the All Groups Consumer Price Index number (that is the weighted average of the 8 capital cities) published by the Statistician.

**latest CPI number** means the CPI number for the most recent quarter.

**March 2003 CPI number** means the CPI number for the quarter beginning on 1 January 2003.

**quarter** means the period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in a year.

**Statistician** has the meaning given by section 3 of the *Australian Bureau of Statistics Act 1975* of the Commonwealth.

### 68 Indexed amount

- (1) The indexed amount is the amount worked out in accordance with the formula:

$$\frac{\$5 \times \text{latest CPI number}}{\text{March 2003 CPI number}}$$

- (2) If, apart from this subclause, the amount under this clause would be an amount in dollars and cents the amount is to be rounded to the nearest 25 cents and, if the amount to be rounded is 12.5 cents, rounded up.

## Table Test procedures for lighters

### Part 1 General test procedures

- (1) The lighter must be maintained at a temperature of  $23 \pm 2$  degrees Celsius for at least 10 hours immediately preceding testing in accordance with Parts 2–4 of this Table.
- (2) The area in which tests are carried out must be maintained at a temperature of  $23 \pm 2$  degrees Celsius during testing in accordance with Parts 2, 4 and 5 of this Table.
- (3) The lighter to be tested must be new, free of mechanical damage and must not (except where required by this Division) have been previously tested.

### Part 2 Flame height test procedures

- (1) The test must be carried out inside a draught-free chamber constructed from suitable non-flammable material. The flame height must be measured to the nearest 10 millimetres.

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- (2) Adjustable lighters must be tested with the lighter adjusted to produce the maximum flame height and then with the lighter adjusted to produce the minimum flame height.
  - (3) The lighter must produce a flame for a continuous 5 second period and the flame height must be determined by measuring from the tip of the flame to the top of the flameguard or to the base of the flame (in the case of a lighter that does not have a flameguard) by means of a board positioned at least 25 millimetres behind the lighter and marked with 10 millimetre increments.

### **Part 3 Inversion test procedures**

The lighter (adjustable lighters adjusted to produce a 50 millimetre flame) must be operated to produce a flame, for a continuous 10 second period in a draught-free chamber, while being held at 45 degrees below the horizontal.

### **Part 4 Drop test procedures**

- (1) The lighter must be allowed to fall three times onto a concrete surface from a point 1.5 metres above it, from the following positions:
  - (a) firstly, an upright position,
  - (b) secondly, an inverted position,
  - (c) thirdly, a horizontal position.
- (2) The lighter must be inspected after every fall and any spontaneous ignition or damage must be recorded.

### **Part 5 Temperature test procedures**

- (1) An oven capable of withstanding the explosion of a lighter when being tested and of maintaining a temperature of  $54\pm 2$  degrees Celsius must be used in the test.
- (2) The lighter must be placed in the oven for four hours during which time the oven temperature must be maintained at  $54\pm 2$  degrees Celsius.
- (3) The lighter when removed from the oven must, when cool, be tested in accordance with Part 3 of this Table.

### **Part 6 Pressure test procedure**

- (1) The test apparatus must consist of a device capable of producing gauge pressure of 2 (MPa).
- (2) The lighter must be emptied of fuel.

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- (3) The fuel reservoir of the lighter must be subjected to an internal pressure equal to twice the vapour pressure at 54 degrees Celsius of the fuel normally used in the lighter. The pressure rise must not exceed a rate of 69 kPa per second.

## Division 17 Children's household cots

### 69 Definitions

In this Division:

*AS/NZS 2172* means the Australian/New Zealand Standard entitled *AS/NZS 2172:2003, Cots for household use—Safety requirements*, as published jointly by Standards Australia and Standards New Zealand on 17 November 2003.

*household cot* means a cot designed for use in household situations, but does not include:

- (a) a folding cot, or
- (b) a carry cot, or
- (c) a cradle.

### 70 Safety standard

- (1) The product safety standard prescribed for:
- (a) new children's household cots is that they must comply with Clauses 5, 6, 9, 11 and 12 of AS/NZS 2172, and
  - (b) second-hand children's household cots is that they must comply with Clauses 5, 6, and 9 of AS/NZS 2172.
- (2) The definitions in Clause 3 of AS/NZS 2172 apply for the purposes of this clause.
- (3) Subclause (1) does not apply in respect of a household cot that is an antique or collectable cot, but only if the antique or collectable cot:
- (a) is accompanied by a certificate from the supplier to the consumer stating that it is not safe to place a child in the cot, and
  - (b) has clearly visible warning statements (one external, one internal) permanently attached to the cot in the form of a metal plaque glued or affixed by nails or screws to the upper half of the side or

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end of the cot and containing the following warning in the form required by subclause (4):

**WARNING: this cot does not meet the mandatory safety standard. For display purposes only. It is dangerous to place a child in this cot.**

- (4) The warning referred to in subclause (3) (b) must:
- (a) contain the upper case lettering and underlining shown in that paragraph, and
  - (b) have upper case lettering at least 5 mm high and lower case letters at least 2.5 mm high, and
  - (c) have lettering that is in sharp contrast to its background.

#### 71 Variation of AS/NZS 2172

- (1) For the purposes of clause 70 (1) (a), AS/NZS 2172 is taken to be amended as follows:
- (a) by omitting Clauses 6.1 (f) and 9.2 (c),
  - (b) by omitting Clause 6.1 (g) and by inserting instead:
    - (g) With the dropside in the closed position and the mattress base in the lower position, when tested in accordance with Appendix A with a force of 50 N it must not be possible for a 30 mm probe to pass through any aperture between the mattress base and the sides and between the mattress base and the ends.
  - (c) by inserting the following Paragraph at the end of Clause 6.3 before the Note:
 

For a mechanism designed for a lift and push dropside release, either action (lift or push) must comply with Item (d).
  - (d) by omitting Note 1 to Clause 6.7,
  - (e) by omitting Paragraphs A5 (h)–(j) in Appendix A and by inserting instead the following Paragraphs:
    - (h) For each gap recorded in Step (g) between the mattress base in the lower position and the sides and



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ends with the dropline in the closed position, insert the 30 mm diameter probe and apply a force of 50 N.

- (i) For each gap recorded in Step (g), except for any gap tested in Step (h), insert the 30 mm diameter probe and apply a force of 100 N.
  - (j) Record each gap that allowed the passage of the 30 mm diameter probe when tested in accordance with Steps (h) and (i) except for the following:
    - (i) gaps formed between:
      - (A) fixed sides and the mattress base in the upper position, and
      - (B) fixed ends and the mattress base in the upper position,
    - (ii) gaps formed between the dropline in both open and closed positions and the mattress base in the upper position,
    - (iii) gaps formed between the dropline in the open position and the mattress base in the lower position.
  - (f) by omitting the words “but not the 50 mm diameter probe as noted in Paragraphs A5 (i) and A5 (g) respectively” from Paragraph A6 (b) in Appendix A and by inserting instead the words “as recorded in Step (j) of Paragraph A5”.
- (2) For the purposes of clause 70 (1) (b), AS/NZS 2172 is taken to be amended as follows:
- (a) by omitting the words “specified on the information leaflet, see Clause 11.1(c)” from Clause 6.1 (d) and by inserting instead the words “marked on the mattress base”,
  - (b) by omitting Clauses 6.1 (f) and (g), 6.8 (c)–(e), 9.2 (b) and (c) and 9.3–9.8,
  - (c) by omitting Note 3 to Clause 6.1 (d),
  - (d) by omitting the words “(see also Clause 9.6)” from the heading to Clause 6.3,
  - (e) by omitting the matter “5 mm” from Clause 6.7 and by inserting instead the matter “8 mm”,
  - (f) by omitting Note 1 to Clause 6.7,
  - (g) by omitting Clause 9.1 and by inserting instead:

#### **9.1 General**

The test referred to in clause 9.2 (a) is the entrapment hazard test for second-hand children’s household cots.

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(h) by omitting Note 2 to Clause 9.2.

## Division 18 Laser pointers

### 72 Definitions

In this Division:

*AS/NZS 2211* means the Australian/New Zealand Standard entitled *AS/NZS 2211.1:1997, Laser safety, Part 1: Equipment classification, requirements and user's guide*, as published jointly by Standards Australia and Standards New Zealand on 5 March 1997.

*Class 1 laser product* has the same meaning as it has in Clause 3.15 of *AS/NZS 2211*.

*Class 2 laser product* has the same meaning as it has in Clause 3.16 of *AS/NZS 2211*.

*laser* means any device that can be made to produce or amplify electromagnetic radiation in the wavelength range from 100 nanometres to 1 millimetre primarily by the process of controlled stimulation emission.

*laser pointer* means a hand-held laser product that is battery-operated and produces a beam of electromagnetic radiation, but does not include any such product that is a therapeutic good (as defined in the *Therapeutic Goods Act 1989* of the Commonwealth) listed or registered in the Australian Register of Therapeutic Goods maintained under that Act.

*laser product* means any product or assembly of components that constitutes, incorporates or is intended to incorporate a laser or laser system, and that is not intended for sale to another manufacturer for use as a component (or replacement for a component) of an electronic product.

*laser system* means a laser in combination with an appropriate laser energy source with or without additional incorporated components.

### 73 Safety standard

The product safety standard prescribed for laser pointers is that they must be a Class 1 laser product or a Class 2 laser product.

### 74 Testing of laser pointers

A person who, in trade or commerce, supplies a laser pointer must hold a test report issued by a laboratory indicating:

- (a) that the laser pointer has been tested, or is part of a batch from which samples have been tested, by the laboratory, and

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- (b) the method used to carry out the test and the results of the test, and
  - (c) that the results of the test show that each laser pointer tested is a Class 1 laser product or Class 2 laser product.

#### 75 Production of reports

A person who, in trade or commerce, supplies laser pointers must, on request, make available for inspection by an investigator any report required under clause 74.

Maximum penalty: 10 penalty units.

### Division 19 Corded internal window coverings

#### 76 Definitions

*ANSI A100* means the American National Standard entitled *American National Standard for safety of corded window covering products* and numbered ANSI/WCMA A100.1–1996, as approved by the American National Standards Institute on 27 November 1996.

*AS/NZS ISO 8124* means the Australian/New Zealand Standard entitled *AS/NZS ISO 8124.1:2002, Safety of toys, Part 1: Safety aspects related to mechanical and physical properties (ISO 8124—1:2000, MOD)*, published on 16 May 2002.

*corded internal window covering* means any interior drapery hardware or window covering product (for example, a curtain, shade, blind, or traverse rod or track) that incorporates any of the following in its operation (other than solely as a tie-back for the covering):

- (a) a *looped bead chain* (being a series of small beads, equally spaced on a cord or connected by metal shafts, which is curved or doubled, or the ends of which are joined by a device, so as to form a closed loop),
- (b) a *looped cord* (being a form of rope, strap, or string which is curved or doubled, or the ends of which are joined by a device, so as to form a closed loop),
- (c) any other type of flexible looped device.

#### 77 Safety standard

- (1) The product safety standard prescribed for a corded internal window covering is that:
  - (a) it must be designed so that any exposed looped cord, looped bead chain or other flexible looped device does not extend to within 1600mm above the base of the covering when the covering is in its lowered position, and

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- (b) it must carry the label and tags required by clause 78, and
  - (c) it must be accompanied by written information that:
    - (i) explains how to install the covering, and
    - (ii) explains how to install any safety device the covering has and how the device is designed to function, and
    - (iii) repeats the warning referred to in clause 78 (1) (b).
- (2) Subclause (1) (a) does not apply in relation to an exposed looped cord, looped bead chain or other flexible looped device:
- (a) that is incapable of forming a loop with a circumference of greater than 300mm (for example, because the covering includes an effective means by which the exposed looped cord, looped bead chain or other flexible looped device can be secured or retracted), or
  - (b) that has a cord release device:
    - (i) that passes the release test for such devices set out in Appendix A of ANSI A100, and
    - (ii) that, in the case of a device that is intended to entirely detach from the covering when it releases its loop, does not, when tested in accordance with clause 5.2 (Small parts test) of AS/NZS ISO 8124, fit entirely into the small parts cylinder referred to in that clause (whatever the device's orientation), or
  - (c) that has a tension device that complies with the requirements of clause 6.5.4 of ANSI A100.
- (3) Subclause 1 (c) does not apply to a corded internal window covering that is custom made for installation by a person in the business of installing internal window coverings.

**78 Label and tags**

- (1) The required label and tags referred to in clause 77 (1) (b) are as follows:
  - (a) a warning label that complies with the requirements of clause 5.1.1 of ANSI A100, or that complies with those requirements (including that for a pictogram) except that it substitutes the words of warning in that clause with the following:  
 WARNING Looped cords, looped bead chains or other flexible looped devices may cause a strangulation hazard for children under 5 years. KEEP CORDS AND CHAINS OUT OF REACH OF CHILDREN
  - (b) a warning tag that complies with the requirements of clause 5.1.2 of ANSI A100, but which refers to "cots" instead of "cribs",

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- (c) if the covering includes any safety device, an operational tag that explains how the device is designed to function.
  - (2) A tag used for the purposes of subclause (1) (b) or (c) must be attached to an internal window covering separately from the warning label referred to in subclause (1) (a).
  - (3) The same tag may be used for the purposes of both subclause (1) (b) and (c) if:
    - (a) the warning (including pictogram) contained on the tag in compliance with subclause (1) (b) and any explanation contained on the tag in compliance with subclause (1) (c) are kept distinct from each other, and
    - (b) the warning and any such explanation are clear and legible.

## Division 20 Moveable soccer goals

### 79 Definition

In this Division:

***moveable soccer goal*** means a freestanding structure consisting of at least two upright posts, a crossbar and support bars that is designed:

- (a) to be used by adults or children for the purposes of a soccer goal, and
- (b) to be used without any other form of support or restraint (other than pegs, stakes or other forms of temporary anchoring device), and
- (c) to be able to be moved to different locations.

**Note.** A soccer goal that is supported by a sleeve set in the ground is not a moveable soccer goal.

### 80 Safety standard

- (1) The product safety standard prescribed for moveable soccer goals is that they must comply with the requirements of subclause (2).
- (2) A moveable soccer goal, when set up in accordance with the manufacturer's instructions on a flat level surface without pegs, stakes or other forms of temporary anchoring device:
  - (a) must not fall over, or fail to return to an upright position, when subjected to a horizontal pull force of 2,000 newtons to the centre of the crossbar for no less than 60 and no more than 70 seconds, and
  - (b) must have all exposed corners and edges rounded with a radius of no less than 3 millimetres, and

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- (c) must have permanently marked clearly and legibly in a conspicuous position on the crossbar or an upright post:
    - (i) the name or trademark of the manufacturer, retailer or importer of the moveable soccer goal, and
    - (ii) the words “WARNING—ALWAYS ANCHOR GOAL—NEVER CLIMB OR HANG ON CROSSBAR. Unanchored goals can tip over causing serious injury or death.” with upper case letters at least 25 millimetres high and lower case letters at least 12.5 millimetres high, and
  - (d) if part of the structure of the moveable soccer goal joins the base of an upright post and runs along the ground (a *ground frame*), the moveable soccer goal must not have any gap greater than 5 millimetres at the point where the ground frame joins the upright post, and no part of the ground frame must extend past the front or sides of the upright post.

#### 81 Exceptions

This Division (other than clause 82 (d)) does not apply to a moveable soccer goal:

- (a) that weighs less than  $28 \pm 0.25$  kilograms, when weighed with all attachments (other than pegs, stakes or other forms of temporary anchoring device) using a commercially available scale, or
- (b) that is designed for indoor use only.

#### 82 Testing of moveable soccer goals

A person who, in trade or commerce, supplies a moveable soccer goal:

- (a) must hold a test report issued no more than 12 months before the supply, indicating:
  - (i) that the particular moveable soccer goal has been tested, and
  - (ii) the method used to carry out the test and the results of the test, and
  - (iii) that the results of the test show that the moveable soccer goal complies with the product safety standard prescribed for moveable soccer goals, and
- (b) must supply a copy of the test report with the moveable soccer goal, and
- (c) must, on request, make available for inspection by an investigator any such test report held by the person, and

**Note.** Section 18 of the Act provides for the appointment of investigators.

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- (d) must, if supplying a moveable soccer goal to which this Division does not apply, supply with the moveable soccer goal a certificate setting out the reasons why this Division does not apply to the moveable soccer goal.

Maximum penalty: 10 penalty units.

## Division 21 Basketball rings and basketball backboards

### 83 Definitions

In this Division:

***basketball backboard*** means a raised vertical board with a basketball ring attached, used to play or practise basketball.

***basketball ring*** means a raised circular band of metal or other material (with or without a basket attached) used to play or practise basketball or netball.

### 84 Warning and symbol to accompany supply of basketball rings and basketball backboards

- (1) The product safety standard prescribed for basketball rings and basketball backboards is that they must be accompanied by:
  - (a) a warning, and
  - (b) a warning symbol.
- (2) The warning referred to in subclause (1) (a) must comply with the following requirements:
  - (a) it must contain the words “WARNING: IMPROPER INSTALLATION OR SWINGING ON THE RING MAY CAUSE SERIOUS INJURY OR DEATH”,
  - (b) it must be clearly legible, in upper case, in red letters on a white background,
  - (c) the word “WARNING” must be in characters not less than 15 millimetres high,
  - (d) the words other than the word “WARNING” must be in characters not less than 10 millimetres high.
- (3) The warning symbol referred to in subclause (1) (b) must comply with the following requirements:
  - (a) it must be in the form of the following graphic:

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- (b) the circle that forms part of the graphic must have a diameter of not less than 120 millimetres from outer edge to outer edge,
  - (c) the circle and the diagonal line that form part of the graphic must be in red, and drawn with a line not less than 5 millimetres in width,
  - (d) the basketball player figure that forms part of the graphic must be entirely black,
  - (e) the ring and backboard that form part of the graphic must be outlined in black.
- (4) If a basketball ring or basketball backboard is supplied in a package, the warning and warning symbol referred to in subclause (1) must accompany the ring or backboard by being marked:



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- (a) in a conspicuous position on the package, or
  - (b) on a label affixed in a conspicuous position on the package.
- (5) If a basketball ring or basketball backboard is not supplied in a package, the warning and warning symbol referred to in subclause (1) must accompany the ring or backboard by being marked:
- (a) in a conspicuous position on the ring or backboard, or
  - (b) on a label affixed in a conspicuous position on the ring or backboard, or
  - (c) on a tag attached in a conspicuous position to the ring or backboard.

#### 85 Permanent warning on basketball backboard

- (1) The product safety standard prescribed for basketball backboards is that they must also have a warning permanently marked on them.
- (2) That warning:
  - (a) must contain the words “WARNING: SWINGING ON THE RING MAY CAUSE SERIOUS INJURY OR DEATH”, and
  - (b) must be clearly legible, in characters not less than 10 millimetres high, and
  - (c) must be marked on the backboard in a conspicuous position:
    - (i) in permanent writing, or
    - (ii) on a label that is permanently affixed on the backboard.

### Division 22 Rubber hot water bottles

#### 86 Definitions

In this Division:

**BS 1970:2001** means the British Standard entitled BS 1970:2001, *Hot water bottles manufactured from rubber and PVC—Specification* (incorporating Amendment No 13675 of 23 July 2002, Amendment No 14355 of 23 April 2003 and Amendment No 14909 of 2 March 2004).

**rubber hot water bottle** means a container made from rubber that is designed to be wholly or partially filled with hot water and sealed with a stopper and used to warm parts of the body or a bed.

#### 87 Safety standard

The product safety standard prescribed for rubber hot water bottles is that they must comply with the following provisions of BS 1970:2001:

Fair Trading Regulation 2007

Clause 87

Product safety standards

Part 2

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**Physical properties**

- (a) Clause 4.2 (Thickness),
- (b) Clause 4.3 (Filling characteristics),

**Closures**

- (c) Clause 5.1 (General), modified as follows:
  - (i) by omitting the words “**C.1** and **C.2**” and by inserting instead the words “Annex C - C.3 Test 1 and Annex C - C.4 Test 2”,
  - (ii) by omitting all of the words in the second paragraph,
- (d) Clause 5.2 (Test for separation of screwed closures),
- (e) Clause 5.3 (Rubber components),

**Performance**

- (f) Clause 6.1 (Leakage),
- (g) Clause 6.2 (Strength of bonded (or welded) seams),
- (h) Clause 6.3 (Pressure test),
- (i) Clause 6.4.2 (Tensile tests for rubber hot water bottles),
- (j) Clause 6.5.1 (Tension set for rubber hot water bottles),

**Informative labelling**

- (k) Clause 8.1 (General), modified by omitting the words “the identification of the European manufacturer, or the UK distributor for bottles manufactured outside the European Union, and”.

Clause 88 Fair Trading Regulation 2007

Part 3 Product information standards

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## Part 3 Product information standards

### Division 1 Preliminary

#### 88 Information standards

The standards set out in the other Divisions of this Part are prescribed under section 38 of the Act as product information standards for the goods to which those Divisions apply.

**Note.** The consequences of failing to comply with a product information standard are set out in section 39 of the Act.

### Division 2 Fibre content labelling of textile products

#### 89 Definitions

In this Division:

*AS/NZS 2392* means the Australian/New Zealand Standard entitled AS/NZS 2392:1999, *Textiles—Labelling of clothing, household textiles and furnishings*, as published jointly by Standards Australia and Standards New Zealand on 5 July 1999.

*AS/NZS 2450* means the Australian/New Zealand Standard entitled AS/NZS 2450:1994, *Textiles—Natural and man-made fibres—Generic names*, as published jointly by Standards Australia and Standards New Zealand on 17 October 1994.

*AS/NZS 2622* means the Australian/New Zealand Standard entitled AS/NZS 2622:1996, *Textile products—Fibre content labelling*, as published jointly by Standards Australia and Standards New Zealand on 5 September 1996.

*textile product* has the same meaning as it has in Clause 5.3 of AS/NZS 2622.

#### 90 Product information standard

The product information standard for textile products is that they must comply with AS/NZS 2622.

#### 91 Form of information

The label in which is contained any statement required for a textile product by AS/NZS 2622 must comply with AS/NZS 2392 and AS/NZS 2450.

Fair Trading Regulation 2007

Clause 92

Product information standards

Part 3

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### Division 3 Care labelling of certain goods

#### 92 Definition

In this Division:

*AS/NZS 1957* means the Australian/New Zealand Standard entitled *AS/NZS 1957:1998, Textiles—Care labelling*, as published jointly by Standards Australia and Standards New Zealand on 5 January 1998.

#### 93 Application of Division

- (1) This Division applies to any of the following goods that are made from textiles, plastics, plastic coated fabrics, suede, skins, hides, grain leathers or furs, and that are not excluded goods:
  - (a) clothing,
  - (b) household textiles,
  - (c) apparel,
  - (d) furnishings or upholstered furniture,
  - (e) bedding, mattresses or bed bases,
  - (f) piece goods or yarns.
- (2) In this clause:

*excluded goods* means the following:

  - (a) second-hand goods,
  - (b) the following kinds of clothing (namely, unsupported coats (including overcoats, jackets and the like) of PVC film, handkerchiefs, braces, garter suspenders, arm bands, belts and headwear),
  - (c) all footwear (including textile materials used in the manufacture of footwear but excluding all types of hosiery),
  - (d) the following kinds of drapery (namely, floor cloths, dish cloths, dusters, cleaning cloths and pressing cloths),
  - (e) the following kinds of haberdashery (namely, ornaments, artificial flowers, sewing and embroidery threads and all other small items of haberdashery used in the making of clothing and textile products where instructions are not needed to ensure that the clothing or textile product is not damaged during cleaning and maintenance),
  - (f) the following kinds of furnishings (namely, oil baize, window blinds, shade blinds, sun blinds, awnings, floor coverings, light fittings, lampshades, tapestries, wall hangings, ornaments, handicraft items, draught excluders, non-upholstered furniture and cushions and cushion covers manufactured from remnants

Clause 94 Fair Trading Regulation 2007

Part 3 Product information standards

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and labelled by the manufacturer with the following disclaimer “cushion cover manufactured from remnants, care treatment unknown”),

- (g) all jute products,
- (h) all medical and surgical goods (including, bandages, dressings, sanitary pads and materials forming part of manufactured medical and surgical goods),
- (i) the following kinds of canvas goods (namely, beach and garden umbrella coverings),
- (j) the following kinds of miscellaneous goods (namely, cords, twines, lashings, garden hose, toys, umbrellas and parasols, shoelaces, woven labels, flex coverings, goods manufactured for sporting purposes (including sporting gloves but excluding all other apparel), articles intended for one-time use only, mops, basket hangers, shoe holders, remnants, industrial gloves, polypropylene webbing furniture and all bags and cases (including handbags, purses, wallets, travel bags, school bags, sports bags, briefcases and wash bags)).

#### 94 Product information standard

The product information standard for goods to which this Division applies is that the goods must comply with AS/NZS 1957.

#### 95 Variation of product information standards

For the purposes of this Division, AS/NZS 1957 is taken to have been amended as follows:

- (a) by omitting Clauses 1.1, 1.2, 1.3, 1.4, 2.1.3 and 2.2 (b),
- (b) by omitting Clause 2.2 (c) and by inserting instead:
  - (c) The wording of the label must be in English and be clearly legible.
- (c) by omitting Note 1 to Clause 2.2,
- (d) by inserting “This includes individual pieces of household textile products sold as sets (eg napkin and tablecloth sets).” at the end of Note 5 to Clause 2.2,
- (e) by inserting after Clause 2.3:

##### 2.4 Alternative care instructions

Where in this Standard there is a requirement for care instructions from categories in Tables 1, 2 or 3 to be provided on or with articles, words that have a similar meaning to the care instructions listed in Tables 1, 2 or 3 may be used.

Fair Trading Regulation 2007

Clause 96

Product information standards

Part 3

- (f) by omitting “each of” from Clause 3.4,
- (g) by omitting “each of” from Clause 3.5,
- (h) by omitting “each category” from Clause 3.6 and by inserting “the categories” instead,
- (i) by omitting “For upholstered furniture, bedding and other furnishings in Table 2, instructions must be given from each category and a prohibitive instruction given if a cleaning method is unsuitable.” from Clause 3.6,
- (j) by inserting the words “The symbol denoting ‘do not dry clean’, that is the circle with the cross through it, is optional.” at the end of Clause 3.6 (before the second Note).

#### 96 Form of information for prescribed goods

- (1) The care instructions for goods to which this Division applies that are prescribed goods may be given:
  - (a) on a removable ticket or label attached to the goods, or
  - (b) on a pamphlet accompanying the goods, or
  - (c) as printed instructions on the wrapper or other matter in which the goods are packaged.
- (2) In this clause:
 

**prescribed goods** means the following:

  - (a) the following kinds of adults’, children’s and babies’ clothing (namely, collars, neckwear, bow ties, gloves, mittens, all types of hosiery, incontinence garments, reversible garments, fur garments, bibs, washable nappies, squares of flannelette, terry towelling or muslin and baby pilchers),
  - (b) the following kinds of drapery (namely, face washers, serviettes, doilies, table cloths, tray cloths, centres, runners, duchess sets, mosquito netting and covers made from mosquito netting, butter muslin and gauze, tea towels, place mats, pot holders, finger tips, appliance covers for teapots, toasters and the like and hot water bottle covers),
  - (c) the following kinds of haberdashery (namely, elastic, elastic threads, ribbons, zips, iron-on binding patches or trim, velcro-type fasteners, curtain making kits and all other small items of haberdashery used in the making of clothing and textile products where instructions are needed to ensure that the clothing or textile product is not damaged during cleaning and maintenance),
  - (d) all shower curtains,

Clause 97 Fair Trading Regulation 2007

Part 3 Product information standards

- 
- (e) all gardening gloves,
  - (f) cushions that are an integral part of a furniture suite.

**97 Care instructions for goods unable to be washed or dry-cleaned**

Where goods are unable to be washed or dry-cleaned, the permanent label must include appropriate instructions in words that:

- (a) warn that the goods are unable to be washed or dry-cleaned, and
- (b) adequately describe the care treatment for the goods.

**Division 4 Petrol price signs**

**98 Definitions**

In this Division:

*consent authority, development application* and *development consent* have the same meanings as they have in the *Environmental Planning and Assessment Act 1979*.

*petrol station* means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, whether or not any other fuel or other product is sold there and whether or not the building or place is used for any other purpose, but does not include a place where the primary business is the hiring, leasing or sale of motor vehicles.

**99 Product information standard**

The product information standard for regular unleaded petrol supplied at a petrol station is that the price at which that petrol is supplied to retail customers at the petrol station must be disclosed by being displayed at the petrol station on one or more signs (*petrol price signs*) that comply with the following requirements:

- (a) a petrol price sign must be so positioned and lit that any price and other matter that it displays will be readily seen by motorists approaching the petrol station at any time that the petrol station is open for business for the supply of petrol,
- (b) a price displayed on a petrol price sign must be a price per litre of petrol.

**100 Planning restriction not affected**

The product information standard specified in clause 99 does not apply to the extent of any inconsistency with:

- (a) a requirement or prohibition imposed by or under the *Environmental Planning and Assessment Act 1979* or the *Local Government Act 1993* (other than a requirement that development consent be obtained), or

Fair Trading Regulation 2007

Clause 100

Product information standards

Part 3

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- (b) a requirement under the *Environmental Planning and Assessment Act 1979* that development consent be obtained, but only if that development consent has been applied for and refused.



Clause 101 Fair Trading Regulation 2007

Part 4 Employment placement services

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## Part 4 Employment placement services

### 101 Information standard for employment placement services

- (1) For the purposes of section 60R of the Act, the requirements of this clause are prescribed as an information standard for employment placement services.
- (2) A person who provides employment placement services must, before providing those services to a person seeking employment (*a job seeker*), give the job seeker a written notice that sets out the following statements:
  - (a) A person who provides employment placement services must not charge a job seeker a fee for the purpose of finding the job seeker employment.
  - (b) A person who provides employment placement services must not engage in misleading or deceptive conduct (such as advertising a position as being available when the person knows no such position exists or knowingly giving misleading information to a job seeker about the nature of a position).
  - (c) If a job seeker believes that a person has acted inappropriately in the course of providing employment placement services, the job seeker may contact the Office of Fair Trading for information on possible action that may be taken.

Fair Trading Regulation 2007

Clause 102

Penalty notice offences

Part 5

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## **Part 5 Penalty notice offences**

### **102 Penalty notice offences: section 64**

For the purposes of section 64 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is a prescribed offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

Clause 103 Fair Trading Regulation 2007

Part 6 Direct commerce provisions

## Part 6 Direct commerce provisions

### 103 Notice of cancellation of direct commerce contract

For the purposes of section 40E (2) (d) of the Act, a notice of cancellation by a consumer of a direct commerce contract may be given by sending the notice by electronic communication to the supplier's email address as provided by the supplier or dealer.

**Note.** Under section 40E (1) (b) of the Act, the 5-day cooling-off period for a direct commerce contract made over the telephone is triggered by the supplier giving the consumer the cooling-off information (as required under section 40D) in writing. If the information is posted to the consumer, section 76 of the *Interpretation Act 1987* provides that service of the letter is taken to have been effected on the fourth working day after it was posted.

### 104 Exclusion of certain contracts from direct commerce provisions

(1) The following kinds of contracts are, in accordance with section 40B (2) of the Act, excluded from the operation of Division 3 of Part 4 of the Act:

- (a) a customer supply contract (within the meaning of the *Electricity Supply Act 1995*) entered into with a person who is a small retail customer for the purposes of that Act,
- (b) a customer supply contract (within the meaning of the *Gas Supply (Natural Gas Retail Competition) Regulation 2001*) entered into with a person who is a small retail customer for the purposes of the *Gas Supply Act 1996*,
- (c) a contract arising out of the conduct of a fundraising appeal within the meaning of the *Charitable Fundraising Act 1991*,
- (d) a business contract,
- (e) a contract for the supply of a financial product, or a managed investment scheme, within the meaning of the *Corporations Act 2001* of the Commonwealth,

**Note.** The hawking of certain financial products and managed investment products is prohibited under the *Corporations Act 2001*—see sections 992A and 992AA of that Act.

- (f) if a contract for the supply of goods or services exists between a consumer and a supplier—a contract between the consumer and the supplier for the supply of goods or services that are of the same kind as those supplied under the existing contract.

**Note.** An example of such an excluded contract is where the consumer has joined a scheme (such as a wine society or club) and agrees to allow the supplier to subsequently offer to the consumer products or services in connection with the scheme. In such a case, the subsequent offering by a dealer or supplier to the consumer of those products or services would not trigger the direct commerce provisions.

Fair Trading Regulation 2007

Clause 105

Direct commerce provisions

Part 6

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However, the exemption under this paragraph does not apply if the supplier subsequently offers different kinds of goods or services to those supplied under the existing contract. For example, if the supplier of telecommunications services, who has an existing contract with a consumer for the supply of a landline phone service, contacts the consumer for the purpose of negotiating a contract for the supply of a mobile phone or an Internet service, the contract for the supply of those other services would not be an excluded contract.

- (2) To avoid any doubt, if:
- (a) a contract for the supply of goods or services exists between a consumer and a supplier, and
  - (b) the supplier subsequently makes contact with the consumer for the purposes of maintaining the goods or services provided under the existing contract (such as the rectification of a fault) or for the purposes of making a minor change to the terms of the existing contract,

any contract for those purposes between the consumer and the supplier that results from that subsequent contact is not a direct commerce contract.

**Note.** One of the elements of the definition of a *direct commerce contract* in section 40B of the Act is that it is made in the course of direct commerce (ie the practice in which a person goes from place to place, or makes telephone calls, seeking out persons who may be prepared to enter, as consumers, into contracts for the supply of goods or services). Another element of the definition is that the contact with the consumer, or the telephone call, is unsolicited.

A direct commerce contract essentially involves the practice of "cold calling" of potential customers. In the case of an existing contract, this practice would not generally be applicable (unless the customer is subsequently contacted for the purpose of negotiating a contract for the supply of different kinds of goods or services to those supplied under the existing contract—see the note to subclause (1) (f)).

- (3) For the purposes of subclause (1) (d), *business contract* means a contract for the supply of goods or services other than of a kind ordinarily acquired for personal, domestic or household use or consumption.

#### 105 Partial exclusion of certain contracts from direct commerce provisions

- (1) In accordance with section 40B (2A) of the Act:
- (a) sections 40C–40H and 40K of the Act do not apply to or in respect of a credit contract, and
  - (b) section 40H of the Act does not apply to or in respect of any direct commerce contract for services that are supplied to the consumer on a continuing basis.

**Note.** An example of such a contract is a loyalty club membership scheme that is accepted by the consumer by the use of a membership card or discount vouchers and where the services accessed by the card

Clause 106	Fair Trading Regulation 2007
Part 6	Direct commerce provisions

or vouchers are supplied over a certain period. It does not include a contract for the supply of services (eg the carrying out of repairs) that are supplied entirely on a one-off basis or are capable of being wholly supplied during the 5-day cooling-off period.

(2) In this clause:

**Consumer Credit Code** means:

- (a) the provisions of the Code by that name set out in the Appendix to the *Queensland Consumer Credit (Queensland) Act 1994*, as applied and in force in any Australian jurisdiction, or
- (b) the provisions of an Act of an Australian jurisdiction that are in the same, or substantially the same, terms as that Code.

**credit contract** has the same meaning as in the Consumer Credit Code, but does not include a consumer lease within the meaning of that Code.

#### 106 Special provisions relating to contracts for classified advertising

In accordance with section 40B (2A) of the Act:

- (a) section 40D (3) (b) of the Act does not apply to or in respect of a contract for the supply of classified advertising (unless the contract is for the supply of a series of advertisements over a period of time), and
- (b) section 40E of the Act does not apply to or in respect of a contract for the supply of classified advertising once the publication deadline in relation to the advertisement has passed, and
- (c) section 40H of the Act does not apply to or in respect of a contract for the supply of classified advertising.

#### 107 Requirement to refund fees collected during cooling-off period for unused services

- (1) This clause applies to the following kinds of direct commerce contracts:
  - (a) a contract that is for the supply of services on a continuing basis,
  - (b) a contract that is for the supply of classified advertising (but only if a cooling-off period is applicable to the contract).
- (2) If, in relation to a direct commerce contract to which this clause applies, the supplier or dealer collects any fees from the consumer during the cooling-off period for services provided during that period, the supplier or dealer must, if the consumer cancels the contract during the cooling-off period in accordance with section 40E of the Act, refund within 7 days of the cancellation of the contract any amount paid by the consumer for services that have not been used by the consumer.

Maximum penalty: 10 penalty units.

Fair Trading Regulation 2007

Clause 108

Industry code for motor vehicle insurers and repairers

Part 7

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## **Part 7 Industry code for motor vehicle insurers and repairers**

### **108 Declaration of industry code of conduct in relation to motor vehicle insurers and repairers**

- (1) For the purpose of section 60X (1) of the Act, the code published in Gazette No 127 on 27 October 2006 at pages 9139–9168 (referred to in this Part as the *published code*) is declared to be an applicable industry code of conduct.
- (2) For the purpose of section 60X (2) (a) of the Act, the following classes of motor vehicles are excluded from the application of the provisions of the applicable industry code of conduct relating to the repair of any such motor vehicles that are or may be damaged:
  - (a) motor vehicles owned or used by the repairer,
  - (b) motor vehicles not registered in New South Wales, except when repaired in New South Wales.
- (3) For the purpose of section 60X (2) (b) of the Act, any provisions of the published code in so far as they relate to:
  - (a) the code or its application being voluntary, or
  - (b) the signatories to the code and the process by which the signatories are bound, or
  - (c) any other incidental matters,are excluded and the declaration under subclause (1) does not apply to those provisions.

### **109 Savings and transitional provisions**

- (1) The applicable industry code of conduct applies to a dispute between an insurer and repairer with respect to a motor vehicle insurance policy, even if the policy was entered into before the relevant provisions of the code took effect.
- (2) The applicable industry code of conduct applies to damage to a motor vehicle covered by a motor vehicle insurance policy, even if the policy was entered into before the relevant provisions of the code took effect.

Clause 110 Fair Trading Regulation 2007

Part 8 Miscellaneous

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## **Part 8 Miscellaneous**

### **110 Delegation by Director-General**

For the purposes of section 8 (1) (i) of the Act, section 83A of the *Gas Supply Act 1996* is a prescribed provision of a prescribed Act.

### **111 Savings**

Any act, matter or thing that, immediately before the repeal of the *Fair Trading (General) Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

Fair Trading Regulation 2007

Penalty notice offences

Schedule 1

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## Schedule 1    Penalty notice offences

(Clause 102)

<b>Column 1</b>	<b>Column 2</b>
<b>Offences under the Fair Trading Act 1987</b>	
Section 27 (1)	\$550
Section 32 (1)	\$550
Section 32 (2)	\$550
Section 36D	\$550
Section 36E	\$550
Section 39 (1)	\$550
Section 40 (1)	\$550
Section 60Q (1)	\$550
Section 60R (3)	\$550





New South Wales

# Fisheries Management (Aquaculture) Regulation 2007

under the

Fisheries Management Act 1994

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

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

## Explanatory note

The object of this Regulation is to remake the *Fisheries Management (Aquaculture) Regulation 2002*, which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation supplements Part 6 of the *Fisheries Management Act 1994* (the *Act*), which relates to aquaculture management, and includes provisions dealing with the following:

- (a) the classification of, applications for, and issue of aquaculture permits,
- (b) the contributions payable by permit holders for administrative costs and research,
- (c) financial arrangements to be entered into by certain permit holders to provide security for the due performance of their payment obligations under the Act,
- (d) the maintenance of a trust account in relation to contributions payable by certain permit holders,
- (e) the classification of, applications for, and issue of aquaculture leases,
- (f) the rent payable under aquaculture leases,
- (g) the subletting, transferring and transmission of aquaculture leases,
- (h) the surrender, consolidation and subdivision of aquaculture leases,
- (i) requirements relating to leased areas, boat channels and access ways,
- (j) the declaration and notification of diseased fish and marine vegetation,
- (k) the marking of containers of shellfish and other aquaculture products for sale,
- (l) the gathering or collection of marine vegetation for commercial purposes.

Fisheries Management (Aquaculture) Regulation 2007

Explanatory note

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This Regulation is made under the *Fisheries Management Act 1994*, including Part 6 (Aquaculture management) and section 289 (the general regulation-making power).

## Fisheries Management (Aquaculture) Regulation 2007

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## Fisheries Management (Aquaculture) Regulation 2007

under the

Fisheries Management Act 1994

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Fisheries Management (Aquaculture) Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Fisheries Management (Aquaculture) Regulation 2002* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**ballot application** means an application to participate in a public ballot for the allocation of an aquaculture lease area.

**extensive aquaculture** means aquaculture undertaken without providing supplementary food for the fish or marine vegetation that are being cultivated.

**food** includes any form of nutrient.

**intensive aquaculture** means aquaculture undertaken by providing supplementary food for the fish or marine vegetation that are being cultivated (whether or not naturally occurring food is consumed or available for consumption by the fish or marine vegetation).

**the Act** means the *Fisheries Management Act 1994*.

**water production area** means a water area available for aquaculture but does not include any water storage area or effluent storage area.

(2) In this Regulation, a reference to a permit of a particular class is a reference to a permit of that class as referred to in clause 4.

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

Clause 4 Fisheries Management (Aquaculture) Regulation 2007

Part 2 Aquaculture permits

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## Part 2 Aquaculture permits

### Division 1 Classification of permits

#### 4 Kinds of aquaculture permits that can be issued

- (1) The following classes of aquaculture permits are prescribed for the purposes of section 144 (2) of the Act:
  - (a) a class A permit authorising extensive aquaculture on public water land or land that is the subject of an aquaculture lease,
  - (b) a class B permit authorising intensive aquaculture on public water land or land that is the subject of an aquaculture lease,
  - (c) a class C permit authorising extensive aquaculture to be undertaken otherwise than on public water land or land that is the subject of an aquaculture lease,
  - (d) a class D permit authorising intensive aquaculture to be undertaken otherwise than on public water land or land that is the subject of an aquaculture lease,
  - (e) a class E permit authorising extensive freshwater aquaculture to be undertaken at 2 or more privately owned locations otherwise than on public water land or land that is the subject of an aquaculture lease,
  - (f) a class F permit authorising a person to operate a fish pond, tank or other structure with a view to charging members of the public for the right to fish in the pond, tank or structure,
  - (g) a class G permit authorising experimental aquaculture to be undertaken,
  - (h) a class H permit authorising a fish hatchery to be operated,
  - (i) a class I permit authorising aquaculture to be undertaken for a charitable or non-profit making purpose.
- (2) A class I permit cannot be issued for a period of more than 3 months.
- (3) In this clause, *fish hatchery* means a place where the progeny of fish are produced for the purpose of selling them.

**Note.** *Public water land* is defined in section 4 (1) of the Act.

### Division 2 Applications for, and issue of, permits

#### 5 Fee payable when applying for an aquaculture permit

- (1) Subject to subclause (2), the fee required to accompany an application for an aquaculture permit is as follows:
  - (a) for a class A permit—\$244,



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- (b) for a class B permit—\$244,
- (c) for a class C permit—\$366,
- (d) for a class D permit—\$609,
- (e) for a class E permit—\$487,
- (f) for a class F permit—\$366,
- (g) for a class G permit—\$609,
- (h) for a class H permit—\$609,
- (i) for a class I permit—\$61.

**Note.** See section 145 (2) (c) of the Act.

- (2) If a person makes more than one application for an aquaculture permit at the same time, the total fee required to be paid for those applications is the sum of the highest application fee that applies to any one of those applications, and:
  - (a) for each additional application for a class I permit—\$61, or
  - (b) for each other application—\$122.

#### **6 Additional grounds for refusing an aquaculture permit**

The Minister is authorised to refuse to issue an aquaculture permit if:

- (a) the applicant has been convicted or found guilty of an offence under the Act or regulations made under the Act, or
- (b) the Minister believes on reasonable grounds that there is a real risk that if the activity to which the permit relates were authorised:
  - (i) fish (whether cultivated or naturally occurring) could become infected with a particular disease, or
  - (ii) the environment of the area where it is proposed to carry on the activity would be damaged.

**Note.** See section 146 (2) (h) of the Act.

### **Division 3 Contributions by permit holders to pay for costs of administration**

#### **7 Aquaculture permit holders liable to pay contributions towards cost of administration**

- (1) Each holder of an aquaculture permit must pay to the Minister an annual contribution for the period of 12 months beginning on 1 July in each year towards the costs of administration of Part 6 of the Act that are directly attributable to industry.

**Note.** See section 156 (1) (a) of the Act.

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Part 2 Aquaculture permits

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- (2) The amount of the annual contribution is \$427.
- (3) The annual contribution is payable, at the permit holder's option, either:
  - (a) within 30 days after the issue of the permit, or
  - (b) by instalments.
- (4) For the purposes of subclause 3 (b), the Minister is required:
  - (a) to determine the amounts of the instalments that are payable, or the manner in which they are to be calculated, and
  - (b) to determine the dates on which the instalments are payable, and
  - (c) to notify the amounts (or the manner of the calculation) of the instalments, and the dates on which they are payable, to the permit holder concerned.
- (5) If there is a failure to pay an instalment in accordance with such a notice, the Minister may treat the total unpaid balance of the annual contribution as an overdue amount of contribution.
- (6) A person must pay the annual contribution under this clause in respect of a period of 12 months referred to in subclause (1) if the person holds an aquaculture permit at any time during the period concerned.
- (7) However, if a person is issued with an aquaculture permit after 1 July in any period of 12 months referred to in subclause (1):
  - (a) the Minister may reduce, on a pro rata basis, the person's contribution for the 12 month period concerned, and
  - (b) the contribution must be paid within 30 days after the issue of the permit, or by instalments in such manner as is advised by the Minister in accordance with subclause (4).
- (8) If an aquaculture permit is cancelled in any period of 12 months referred to in subclause (1), the Minister may:
  - (a) reduce, on a pro rata basis, the amount of any annual contribution that is owing, or
  - (b) refund the amount (if any) of the annual contribution that has been paid for the period after the date of cancellation up to 30 June in respect of that 12 month period.

#### **8 Costs of administration that are directly attributable to industry**

For the purposes of section 156 (1) (a) of the Act, the following costs of administration of Part 6 of the Act are directly attributable to industry:

- (a) the cost of developing, implementing and ensuring compliance with, strategies, policies and regulations under Part 6 of the Act for the orderly management and development of sustainable and viable aquaculture industries,

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- (b) the cost of providing administrative services in connection with aquaculture permit and aquaculture lease transactions, in particular, the costs associated with the following:
  - (i) the collection of fees and contributions,
  - (ii) the assessment of permits,
  - (iii) the granting of leases.

## 9 Exemptions

The Minister may exempt a permit holder or class of permit holders from paying an annual contribution under this Division in respect of an aquaculture permit if the Minister is satisfied that an exemption is warranted because:

- (a) the permit is a class I permit (a permit issued for charitable or non-profit purposes), or
- (b) the permit is a class F permit and the permit holder only conducts extensive fish-out operations, or
- (c) the permit is issued for the purpose of authorising embryonic or experimental aquaculture operations.

## 10 Minister may waive payment of contribution

The Minister may waive payment of all or part of an annual contribution payable under this Division if the Minister considers it appropriate to do so.

## Division 4 Contributions by permit holders to pay for research

### 11 Aquaculture permit holders liable to pay contributions for research

- (1) Each holder of an aquaculture permit must pay to the Minister an annual contribution of the prescribed amount for the period of 12 months beginning on 1 July in each year for the purposes of meeting:
  - (a) the cost of carrying out research that will benefit the New South Wales aquaculture industry (including research by the Fisheries Research and Development Corporation established under the *Primary Industries and Energy Research and Development Act 1989* of the Commonwealth), and
  - (b) the costs incurred in maintaining any relevant research committee established under section 157 (4) of the Act.

**Note.** See section 156 of the Act (Annual contribution to cost of administration or research or to other industry costs).
- (2) This clause does not apply to the holder of a class G or a class I permit.

Clause 11 Fisheries Management (Aquaculture) Regulation 2007

Part 2 Aquaculture permits

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- (3) The prescribed annual contribution is as follows:
  - (a) for a class A or B permit—\$34 for each hectare, or part of a hectare, of the area to which the permit relates,
  - (b) for a class C, E or F permit—\$122,
  - (c) for a class D or H permit, the greater of:
    - (i) \$122, or
    - (ii) \$25 for each hectare, or part of a hectare, of the total water production area to which the permit relates.
- (4) A contribution under this clause must be paid, at the permit holder's option, either:
  - (a) on or before 31 July in each year for which it is payable, or
  - (b) by instalments.
- (5) For the purposes of subclause (4) (b), the Minister is required:
  - (a) to determine the amounts of the instalments that are payable, or the manner in which they are to be calculated, and
  - (b) to determine the dates on which the instalments are payable, and
  - (c) to notify the amounts (or the manner of the calculation) of the instalments, and the dates on which they are payable, to the permit holder concerned.
- (6) If there is a failure to make a payment in accordance with such a notice, the Minister may treat the total unpaid balance as an overdue amount of contribution even if payment by instalments has begun.
- (7) If the total area to which an aquaculture permit relates is less than 1 hectare, the contribution payable by the holder of the permit under this clause is that payable for 1 hectare.
- (8) If a person holds 2 or more aquaculture permits, the prescribed annual contribution for that person is the highest annual contribution that applies to any one of that person's permits.
- (9) If a person is issued with an aquaculture permit after 1 July in any period of 12 months referred to in subclause (1):
  - (a) the Minister may reduce, on a pro rata basis, that person's contribution for the 12 month period concerned, and
  - (b) the contribution must be paid within 30 days after the issue of the permit, or by instalments in such manner as is advised by the Minister in accordance with subclause (5).
- (10) If an aquaculture permit is cancelled in any period of 12 months referred to in subclause (1), the Minister may:

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- (a) reduce, on a pro rata basis, the amount of any annual contribution that is owing, or
  - (b) refund the amount (if any) of the annual contribution that has been paid for the period after the date of cancellation up to 30 June in respect of that 12 month period.
- (11) The Minister may waive payment of all or part of an annual contribution payable under this Division if the Minister considers it appropriate to do so.

**12 Research trust accounts to be maintained for the purposes of this Division**

- (1) The Minister is required to maintain a separate research trust account for the purposes specified in clause 11 (1).
- (2) The trust account is to consist of:
  - (a) all contributions paid or recovered under this Division by or from permit holders, and
  - (b) the interest or other income accruing from investing the money in the trust account.
- (3) The money held in the trust account is vested in the Minister as trustee and is to be applied in accordance with this Division.

**13 Where research trust account money is to be kept and how the account is to be operated**

- (1) The Minister must keep at an authorised deposit-taking institution located in New South Wales a research trust account for the purposes specified in clause 11 (1). The name of the account must include the relevant purpose and the words "Aquaculture Research Trust Account".
- (2) The Minister must ensure that all money referred to in clause 12 (2) is paid to the credit of the relevant trust account.
- (3) Subject to this Division, the Minister is responsible for determining the manner in which the trust account is to be operated.

**14 Money held in research trust account to be invested**

The Minister may invest money held in a research trust account that is not immediately required for the purposes of this Division:

- (a) in accordance with Division 2 of Part 2 of the *Trustee Act 1925* as if the money were trust funds, or
- (b) on deposit with the Treasurer.

Clause 15 Fisheries Management (Aquaculture) Regulation 2007

Part 2 Aquaculture permits

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**15 Purposes for which money held in research trust account can be used**

Money held in a research trust account may be applied only for:

- (a) meeting the costs incurred in carrying out the purpose for which the trust account was established, and
- (b) meeting the expenses incurred by the Minister in administering the trust account.

**16 Committees in respect of research trust account**

Schedule 1 applies to committees appointed by the Minister in respect of research trust accounts under section 157 of the Act.

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Clause 17

Security arrangements for aquaculture permit holders

Part 3

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## Part 3 Security arrangements for aquaculture permit holders

### Division 1 Preliminary

#### 17 “Payment obligation” defined

In this Part, *payment obligation*, in relation to a permit holder, means:

- (a) an obligation of the permit holder to pay a debt to the Minister in consequence of the Minister or an agent of the Minister having undertaken work under section 162 (4), 170 (4) or 171 (4) of the Act, or
- (b) an obligation of the permit holder to pay a debt to the Minister arising in consequence of a fisheries officer having taken action under section 183 (6) of the Act, or
- (c) an obligation of the permit holder arising under section 213 of the Act to pay a debt in consequence of a fisheries officer having taken measures to destroy noxious fish.

**Note.** The above provisions of the Act provide, among other things, for the following:

- (a) Section 162 of the Act enables the Minister or an agent of the Minister to enter an area to which an aquaculture permit relates and carry out work necessary to achieve compliance with a notice requiring the area to be kept in a tidy condition, or to remove from land (other than that area) anything that has been left there by the permit holder or that has come from that area and become deposited on that land.
- (b) Section 170 of the Act enables the Minister or an agent of the Minister to enter a leased area to remove any fence unlawfully erected on the area.
- (c) Section 171 of the Act enables the Minister or an agent of the Minister to enter an area that was held by a former lessee who has failed to comply with a notice requiring improvements on the area to be removed, and to remove those improvements from the area.
- (d) Section 183 of the Act enables a fisheries officer to enter an area quarantined because of a fish disease to take action required by an order to enforce the quarantine.
- (e) Section 213 of the Act enables a fisheries officer to enter premises where noxious fish are believed to be located and to take measures to destroy the fish if a notice served on the owner or occupier of the premises to destroy the fish has not been complied with.

Generally, the costs incurred in taking the above measures (after certain deductions) are a debt owing to the Minister.

Clause 18 Fisheries Management (Aquaculture) Regulation 2007

Part 3 Security arrangements for aquaculture permit holders

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## **Division 2 Security to be provided by class A and class B permit holders**

### **18 Persons to whom this Division applies**

This Division applies to and in respect of class A and class B permit holders.

### **19 Class A and B permit holders to enter into financial arrangement to provide security**

- (1) It is a condition of every class A or class B permit that the permit holder must enter into, and maintain, one of the following arrangements:
  - (a) the depositing with the Minister by the permit holder of the required amount of cash to secure the due performance of the permit holder's payment obligations under the Act,
  - (b) a guarantee issued by an authorised deposit-taking institution, or by a corporation authorised to carry on insurance business in Australia, indemnifying the Crown to the extent of the required amount to secure that performance,
  - (c) a financial arrangement approved by the Minister under which a corporation of which the permit holder is a member agrees with the Minister to indemnify the Crown to the extent of an amount specified in the agreement to secure that performance.
- (2) However, a class A permit holder of a class 1 lease (as referred to in clause 30) may decide not to enter into, or to cease, an arrangement under subclause (1). In that case, the permit holder is taken to have entered into a financial arrangement for the payment of annual contributions as provided by Division 3 and that arrangement is taken to be a condition of the permit.
- (3) A permit holder may choose which kind of arrangement is to be entered into under subclause (1), and may, with the concurrence of the Minister, change the chosen arrangement to another arrangement at any time while the permit is in force.
- (4) For the purposes of this clause, the required amount is \$1,000 for each hectare (or part of a hectare) of the leased area or areas held by the permit holder or permit holders concerned.
- (5) The Minister is required to keep a separate account in respect of cash deposited under this clause and to invest the cash:
  - (a) in accordance with Division 2 of Part 2 of the *Trustee Act 1925* as if the cash were trust funds, or
  - (b) on deposit with the Treasurer.



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Clause 20

Security arrangements for aquaculture permit holders

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- (6) The Minister may:
- (a) reduce the amount otherwise payable by a class A permit holder of a class 1 lease under an arrangement referred to in subclause (1) (a) or (b), or
  - (b) reduce the amount of annual contributions otherwise payable by a class A permit holder of a class 1 lease under an arrangement referred to in subclause (2), or
  - (c) exempt a class A permit holder of a class 1 lease from the operation of subclause (1),
- if the Minister considers that the reduction or exemption is just and reasonable, given the type of aquaculture to which the permit and lease relate and the manner in which the aquaculture is to be undertaken.
- (7) The Minister may revoke a grant of a reduction or exemption if the Minister is satisfied that the reduction or exemption is no longer warranted.
- (8) The Minister may grant, or revoke a grant of, a reduction or exemption:
- (a) in a particular case, by instrument in writing served on the permit holder, or
  - (b) in a particular class of case, by notice published in the Gazette.
- (9) The grant, or revocation of a grant, of a reduction or exemption takes effect on and from the date specified in the instrument or notice, as the case may be.

## **20 When secured amounts are liable to be forfeited**

- (1) If it appears to the Minister that a permit holder who has entered into an arrangement referred to in clause 19 (1) has incurred a payment obligation under the Act, the Minister may serve on the permit holder a notice requiring the permit holder to perform the obligation within a period specified in the notice (being not less than 14 days).
- (2) If the permit holder fails to perform the payment obligation within the period specified in the notice, the Minister may forfeit the amount deposited or secured under the arrangement to the Crown to the extent of that obligation.
- (3) If the amount forfeited is an amount secured under an arrangement of a kind referred to in clause 19 (1) (b) or (c), the guarantor or the party to the financial arrangement concerned must, within 7 days after being served by the Minister with a notice declaring the amount to be forfeited, pay the amount to the Minister. The amount is recoverable by proceedings brought in a court of competent jurisdiction as a debt due to the Crown.

Clause 21 Fisheries Management (Aquaculture) Regulation 2007

Part 3 Security arrangements for aquaculture permit holders

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- (4) An amount may be forfeited under this clause even though the person who entered into the arrangement concerned is no longer a permit holder.

**21 What happens to an arrangement when a person stops being a permit holder**

- (1) Any arrangement of a kind referred to in clause 19 (1) that a person who is a class A or class B permit holder has entered into ceases at the time at which the person ceases to be the holder of the permit, but only if the Minister is satisfied that the person has no payment obligations outstanding.
- (2) If the arrangement is a deposit of cash with the Minister, the person (or the person's legal personal representative) is entitled to:
- (a) a refund of the cash, and
  - (b) payment of the interest accruing on the investment of the deposit, less any amount that the Minister certifies to be attributable to administration costs.

**Division 3 Financial arrangements by way of contributions taken to be entered into by certain class A permit holders**

**22 Persons to whom this Division applies**

This Division applies to every class A permit holder of a class 1 lease (as referred to in clause 30) who, by virtue of clause 19 (2), is taken to have entered into a financial arrangement for the payment of annual contributions in accordance with this Division.

**23 Contributions to be made by certain class A permit holders**

- (1) A class A permit holder to whom this Division applies must pay to the Minister, to secure the due performance of the permit holder's payment obligations under the Act, an annual contribution of \$40 for each hectare, or part of a hectare, of the aquaculture farm or farms to which the permit relates, in respect of each period of 12 months beginning on 1 July in any year.
- (2) If the total area of the aquaculture farm or farms to which an aquaculture permit relates is less than 1 hectare, the contribution required by this clause is that payable for 1 hectare.
- (3) A contribution required by this clause must be paid, at the permit holder's option, either:
- (a) on or before 31 July in the period of 12 months for which it is payable, or

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Security arrangements for aquaculture permit holders

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- (b) by instalments.
  - (4) For the purposes of subclause (3) (b), the Minister is required:
    - (a) to determine the amounts of the instalments that are payable, or the manner in which they are to be calculated, and
    - (b) to determine the dates on which the instalments are payable, and
    - (c) to notify the amounts (or the manner of the calculation) of the instalments, and the dates on which they are payable, to the permit holder concerned.
  - (5) If there is a failure to make a payment in accordance with such a notice, the Minister may treat the total unpaid balance as an overdue amount of contribution even if payment by instalments has begun.
  - (6) A class A permit holder to whom this Division applies may at any time elect to enter into an arrangement of a kind referred to in clause 19 (1). However, such an election does not affect the liability of the permit holder to pay the contribution for the period of 12 months in which the election is made.
  - (7) A contribution paid under this clause is not refundable.

#### **24 Minister may suspend requirement to make contributions**

- (1) The Minister may, by order published in the Gazette, suspend the operation of clause 23 for a particular period of 12 months if satisfied that the amount held in the trust account kept under clause 26 is for the time being sufficient for the purposes of the account.
- (2) The Minister must also notify in writing the effect of an order made under this clause to all permit holders affected by the order. However, failure to comply with this subclause does not affect the validity of the order.

#### **25 Minister to enforce permit holder's obligations**

- (1) If it appears to the Minister that a class A permit holder to whom this Division applies has incurred a payment obligation under the Act, the Minister may, by notice in writing served on the permit holder, require the permit holder to perform the obligation within a period specified in the notice (being not less than 14 days).
- (2) If:
  - (a) the permit holder has failed to perform the payment obligation within the period specified in the notice, and
  - (b) the Minister certifies in writing that all reasonable practicable steps have been taken to recover the debt arising from the permit

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holder's failure to perform that obligation or the permit holder's whereabouts are unknown,  
the Minister may then (and only then) withdraw from the trust account under clause 26 an amount equal to that debt.

- (3) In order to reduce the amounts withdrawn under subclause (2) from the trust account, the Minister is to arrange for aquaculture leases to be inspected every 3 years for matters that may give rise to payment obligations by the lessees.
- (4) Subclause (2) applies even if proceedings brought under the Act to recover the debt have been unsuccessful and even if the person who has failed to perform the obligation concerned has ceased to be a permit holder.

**26 Trust account to be maintained for the purposes of this Division**

- (1) The Minister is required to maintain a trust account for the purposes of this Division.
- (2) The trust account is to consist of:
  - (a) all contributions and additional contributions paid or recovered under this Division by or from class A permit holders to whom this Division applies, and
  - (b) all money required to be paid to the trust account in accordance with this Division, and
  - (c) the interest or other income accruing from investing the money in the trust account.
- (3) The money held in the trust account is vested in the Minister as trustee and is to be applied in accordance with this Division.

**27 Purposes for which money held in trust account can be used**

Money held in the trust account under clause 26 may be applied only for the following purposes:

- (a) subject to clause 25, meeting the expenses incurred by the Minister in carrying out a payment obligation of a class A permit holder to whom this Division applies,
- (b) meeting the expenses incurred by the Minister in administering the trust account and of any committee appointed by the Minister in respect of that trust account.

**28 Where trust account money is to be kept and how the account is to be operated**

- (1) The Minister must maintain the trust account under clause 26 at an authorised deposit-taking institution located in New South Wales. The

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name of the account must include the words “Aquaculture Lease Security Trust Account”.

- (2) The Minister must ensure that all amounts referred to in clause 26 (2) are paid to the credit of the trust account.
- (3) Subject to this Division, the Minister is responsible for determining the manner in which the trust account is to be operated.

#### **29 Money held in trust account may be invested**

The Minister may invest money held in the trust account under clause 26 that is not immediately required for the purposes of this Division:

- (a) in accordance with Division 2 of Part 2 of the *Trustee Act 1925* as if the money were trust funds, or
- (b) on deposit with the Treasurer.

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Part 4 Aquaculture leases

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## Part 4 Aquaculture leases

### Division 1 Classification of leases

#### 30 Classes of aquaculture leases

- (1) The kinds of aquaculture leases that may be granted under Part 6 of the Act are as follows:
  - (a) a class 1 lease for a leased area:
    - (i) where extensive cultivation of fish or marine vegetation is undertaken and a majority of the area under cultivation is in water the depth of which is less than 6 metres, or
    - (ii) where the leased area comprises or includes a bed from which oysters are dredged (whether the bed is at a depth of less than 6 metres or not),
  - (b) a class 2 lease for a leased area where:
    - (i) extensive cultivation of fish or marine vegetation is undertaken and a majority of the area under cultivation is in water the depth of which is 6 metres or more, and
    - (ii) the area does not comprise or include a bed of the kind referred to in paragraph (a) (ii),
  - (c) a class 3 lease for a leased area where intensive cultivation of fish or marine vegetation is undertaken,
  - (d) a class 4 lease for a leased area where fish ranching is undertaken.
- (2) For the purposes of this clause, *fish ranching* is the artificial stocking of an area with juvenile fish of a species that is able to roam freely and feed on naturally available food.
- (3) The depths referred to in this clause are to be measured at lowest astronomical tide.

### Division 2 Applications for, and grant and renewal of, aquaculture leases

#### 31 Application for, and refusal of, an aquaculture lease

- (1) An application for an aquaculture lease is to be made to the Minister and must:
  - (a) be in accordance with a form provided or approved by the Director-General, and
  - (b) be accompanied by the processing fee prescribed by subclause (2).

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Clause 32

Aquaculture leases

Part 4

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- (2) The processing fee is as follows:
- (a) for a class 1 lease—\$609,
  - (b) for a class 2 lease—\$609,
  - (c) for a class 3 lease—\$609,
  - (d) for a class 4 lease—\$976.

**Note.** Section 163 (7) of the Act makes provision for the advertising and grant of an application for an aquaculture lease. If the lease is to be offered by auction, public tender or ballot, the other provisions of this Part apply.

- (3) The Minister may refuse an application for an aquaculture lease only on the ground that:
- (a) the application does not comply with subclause (1), or
  - (b) in the case of an applicant who is not a corporation—the applicant is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (c) in the case of an applicant that is a corporation—the applicant, or any of the directors or other persons concerned in the management of the applicant, is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (d) the applicant has rent, contributions or other amounts payable to the Minister that are outstanding in respect of other aquaculture leases, or
  - (e) the applicant has, in the Minister's opinion, a poor record of managing one or more other leased areas, or
  - (f) in the Minister's opinion, it would otherwise not be in the public interest to grant the lease to the applicant.

### **32 Applicant's obligations to mark area applied for**

- (1) The Director-General may give to an applicant for an aquaculture lease directions for marking out the boundaries of the area applied for.
- (2) Within 30 days after the Director-General has given to an applicant for an aquaculture lease directions under subclause (1) (or within such extended period as the Director-General may allow), the applicant is to mark out in accordance with those directions the boundaries of the area concerned.
- (3) The Minister may refuse to consider an application for an aquaculture lease unless the applicant has marked out the boundaries of the area concerned, and is maintaining the markings, in accordance with the directions given under this clause.

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- (4) The applicant must remove the markings:
- (a) within 30 days after the application for the aquaculture lease is granted, refused or withdrawn, or
  - (b) within such further period as the Director-General may allow.
- Maximum penalty: 10 penalty units.

**33 Offer of aquaculture lease by auction, public tender or ballot**

- (1) If the Minister decides that an area should be offered for lease by auction, public tender or ballot, the Minister must publish, in the Gazette and in a newspaper circulating in the district in which the area is located, a notice:
- (a) describing the area to be leased sufficiently to identify it, and
  - (b) specifying the method by which the lease is to be offered, and
  - (c) specifying a deadline for persons to lodge with the Minister objections to the leasing of the area, and
  - (d) specifying any covenants or conditions to which the disposal of the lease will be subject.
- The deadline must be not less than 30 days after the date of publication of the notice or, if the publications in the Gazette and in the newspaper are on different dates, from the later of those dates.
- (2) The Minister must also send a copy of any such notice published in the Gazette to any association representing aquaculture farmers that has notified the Minister of its interest in being notified of any such area being considered for leasing.
- (3) The Minister may decide that an area should be offered for lease by auction, public tender or public ballot even though the Minister has received an application to lease the area.
- (4) If the Minister, after considering objections to the leasing of an area, decides to proceed with the leasing of the area by auction, public tender or ballot, the Minister must publish, in the Gazette and in a newspaper circulating in the district in which the area is located, a notice containing the following information:
- (a) a description sufficient to identify the area to be leased,
  - (b) the term for which the area is to be leased,
  - (c) how details of the proposed covenants and conditions can be obtained,
  - (d) the proposed annual rent,
  - (e) the value of any improvements to the area,



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- (f) the time and place of the auction, or the time and place for receipt of tenders or ballot applications,
  - (g) if the lease is to be offered by public ballot—the amount of any premium that is required to be paid by the successful applicant,
  - (h) any special particulars that are to be provided by bidders, tenderers or applicants for the lease.

#### **34 Offer of aquaculture lease by auction**

- (1) If an aquaculture lease is offered at an auction, the bid of the person who offers the highest premium is to be accepted, subject to the bidder being approved by the Minister.
- (2) Immediately after the auction has taken place, the successful bidder must pay to the auctioneer the premium offered for the lease at the auction. If that premium is not paid at that time, the auctioneer must offer the lease again until a successful bidder pays the premium offered or the offer of the lease is withdrawn from the auction.
- (3) Immediately after the auction has taken place, the successful bidder must lodge with the Minister an application for the lease in accordance with clause 31 (1), together with the appropriate processing fee prescribed by clause 31 (2).
- (4) If the Minister does not approve the highest bidder, the Minister may approve the person who has made the next highest bid and so on. However, nothing in this subclause requires the Minister to approve any bidder if subclause (5) applies.
- (5) The Minister may refuse to approve a bidder only on the ground that:
  - (a) the bidder has not complied with subclause (3), or
  - (b) in the case of a bidder who is not a corporation—the bidder is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (c) in the case of a bidder that is a corporation—the bidder, or any of the directors or other persons concerned in the management of the bidder, is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (d) the bidder has rent, contributions or other amounts payable to the Minister that are outstanding in respect of other aquaculture leases, or
  - (e) the bidder has, in the Minister's opinion, a poor record of managing one or more other leased areas, or
  - (f) in the Minister's opinion, it would otherwise not be in the public interest to grant the lease to the bidder.

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- (6) The term of an aquaculture lease offered at an auction is to begin on and from the date decided by the Minister and specified in the lease. That date must not be earlier than the date of approval of the successful bidder by the Minister.

**35 Offer of aquaculture lease for public tender**

- (1) A person who wishes to tender for an aquaculture lease that is being offered for public tender must lodge with the Minister a tender in writing containing the following:
- (a) an application for the lease in accordance with clause 31 (1), together with the appropriate processing fee prescribed by clause 31 (2),
  - (b) a statement of the amount of the premium tendered.
- (2) The tender of the person who offers the highest premium is to be accepted, subject to the tenderer being approved by the Minister.
- (3) If the Minister does not approve the tenderer who offers the highest premium, the Minister may approve the tenderer who has offered the next highest premium and so on. However, nothing in this subclause requires the Minister to approve any tenderer if subclause (4) applies.
- (4) The Minister may refuse to approve a tenderer only on the ground that:
- (a) the tenderer's tender does not comply with subclause (1), or
  - (b) in the case of a tenderer who is not a corporation—the tenderer is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (c) in the case of a tenderer that is a corporation—the tenderer, or any of the directors or other persons concerned in the management of the tenderer, is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (d) the tenderer has rent, contributions or other amounts payable to the Minister that are outstanding in respect of other aquaculture leases, or
  - (e) the tenderer has, in the Minister's opinion, a poor record of managing one or more other leased areas, or
  - (f) the tenderer's tender contains conditions that are unacceptable to the Minister, or
  - (g) in the Minister's opinion, it would otherwise not be in the public interest to grant the lease to the tenderer.
- (5) The successful tenderer must pay the amount of the premium tendered to the Minister within 14 days after being notified in writing of the Minister's approval under this clause.

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- (6) If the premium tendered is not paid within that period or the successful tenderer withdraws the tender, the Minister may offer the lease to the next highest tenderer and so on until the Minister approves a tenderer who pays the premium tendered.
- (7) The term of an aquaculture lease offered for tender is to begin on the date decided by the Minister and specified in the lease. That date must not be earlier than the date on which the successful tenderer is approved by the Minister.

### **36 Offer of aquaculture lease by ballot**

- (1) A person who wishes to apply for an aquaculture lease that is being offered by ballot must lodge with the Minister in writing an application for the lease in accordance with clause 31 (1), together with the appropriate processing fee prescribed by clause 31 (2).
- (2) The ballot application that is drawn first is to be accepted, subject to the successful applicant being approved by the Minister.
- (3) If the Minister does not approve the successful applicant, the Minister may approve:
  - (a) the applicant whose name was next drawn at the ballot in case the previously successful applicant's application should not be approved under this clause or is withdrawn, or
  - (b) a successful applicant at a later ballot.

However, nothing in this subclause requires the Minister to approve any applicant if subclause (4) applies.
- (4) The Minister may refuse to approve an application only on the ground that:
  - (a) the application does not comply with subclause (1), or
  - (b) in the case of an applicant who is not a corporation—the applicant is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (c) in the case of an applicant that is a corporation—the applicant, or any of the directors or other persons concerned in the management of the applicant, is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (d) the applicant has rent, contributions or other amounts payable to the Minister that are outstanding in respect of other aquaculture leases, or
  - (e) the applicant has, in the Minister's opinion, a poor record of managing one or more other leased areas, or

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- (f) in the Minister's opinion, it would otherwise not be in the public interest to grant the lease to the applicant.
  - (5) The successful applicant must pay to the Minister within 14 days after being notified of the Minister's approval of the applicant's application the premium (if any) specified in the notice published under clause 33 (4).
  - (6) If the premium is not paid within that period, the Minister may offer the lease either:
    - (a) to the applicant whose name was next drawn at the ballot in case the successful applicant should default in complying with subclause (5) or withdraw the application, or
    - (b) to the successful applicant at a later ballot,
 and so on until the Minister approves a successful applicant who pays the requisite premium.
  - (7) The term of an aquaculture lease offered by ballot is to begin on the date decided by the Minister and specified in the lease. That date must not be earlier than the date on which the successful applicant was approved by the Minister.

**37 Minister's obligations when granting an aquaculture lease**

- (1) If the Minister decides to grant an aquaculture lease, the Minister must provide the proposed lessee with the following documents:
  - (a) a copy of the plan of the area,
  - (b) a draft lease document that is in accordance with Form 1 in Schedule 2,
  - (c) a statement of the fees, rent or other amounts payable by the lessee in connection with the grant of the lease.
- (2) The Minister must not grant an aquaculture lease unless, before the deadline, the proposed lessee lodges with the Minister:
  - (a) the draft lease document (signed by the proposed lessee), and
  - (b) all amounts (including rent) payable by the proposed lessee in connection with the grant of the lease.

The deadline is the end of the period of 90 days (or such further period as the Minister may allow) after the proposed lessee is provided with the documents referred to in subclause (1).

- (3) After granting an aquaculture lease, the Minister must publish in the Gazette notice of the granting of the lease and the person to whom it is granted.

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**38 Application for renewal of an aquaculture lease**

- (1) An application for renewal of an aquaculture lease is to be made to the Minister and must:
  - (a) be accompanied by the lease document and the appropriate processing fee prescribed by subclause (2), and
  - (b) be in accordance with a form provided or approved by the Minister.
- (2) The fee to accompany an application under this clause is as follows:
  - (a) in the case of a class 1 lease—\$487,
  - (b) in the case of a class 2 lease—\$366,
  - (c) in the case of a class 3 lease—\$609,
  - (d) in the case of a class 4 lease—\$366.

**Note.** See section 167 of the Act (Renewal of lease).
- (3) The Minister may refuse to accept an application under this clause that is made earlier than 12 months before the term of the lease is due to expire.

**39 Process for renewing an aquaculture lease**

- (1) If the Minister decides to renew an aquaculture lease, the Minister must provide the applicant with the following documents:
  - (a) a copy of the plan of the area,
  - (b) a draft lease document that is in accordance with Form 1 in Schedule 2,
  - (c) a statement of the fees, rent or other amounts payable by the lessee in connection with the renewal of the lease.
- (2) The Minister must not renew an aquaculture lease unless, before the deadline, the applicant for renewal lodges with the Minister:
  - (a) the draft lease document (signed by that applicant), and
  - (b) all amounts (including rent) payable by that applicant in connection with the renewal of the lease.

The deadline is the end of 90 days (or such further period as the Minister may allow) after that applicant is provided with the documents referred to in subclause (1).
- (3) Subject to section 167 of the Act, the Minister may refuse an application for the renewal of an aquaculture lease on the ground that:
  - (a) in the case of an applicant who is an individual—the applicant is disqualified under section 161 of the Act from holding an aquaculture permit, or

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- (b) in the case of an applicant that is a corporation—the applicant, or any of the directors or other persons concerned in the management of the applicant, is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (c) the applicant has rent, contributions or other amounts payable to the Minister that are outstanding in respect of that or other leases, or
  - (d) the applicant has, in the Minister’s opinion, a poor record of managing one or more other leased areas, or
  - (e) in the Minister’s opinion, it would otherwise not be in the public interest to renew the lease.
- (4) After renewing an aquaculture lease, the Minister must publish in the Gazette notice of the renewal of the lease.

**Note.** Section 167 (2) of the Act provides that the Minister may renew a lease if satisfied that the area should continue to be available for aquaculture. However a lessee is entitled to the renewal of the lease if it is the first renewal of the lease after it was granted.

### Division 3 Rent for aquaculture leases

#### 40 Minimum rent for leased area

- (1) The minimum rent payable per year for a lease (of any class) is the greater of:
  - (a) \$122, and
  - (b) \$45 for each hectare or part of a hectare of the area or areas leased.
- (2) When 2 or more leases of the same class are held by the same lessee, the leases are to be treated as if they were a single lease for the purpose of determining the minimum rent applicable to those leases.
 

**Note.** See section 165 (5) of the Act.
- (3) For the purpose of this Division, a *year* is a period of 12 months beginning on 1 July in any year.

#### 41 How rent for an aquaculture lease is to be calculated

- (1) The lessee under an aquaculture lease must pay the rent payable under the lease to the Minister.

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- (2) The first payment of rent for an aquaculture lease that is granted or renewed is to be calculated as follows:

$$AP = \frac{DR}{365} \times AR$$

where:

*AP* represents the amount to be paid.

*DR* represents the number of days during the period beginning on the date when the lease begins and ending with 30 June next following.

*AR* represents the amount of rent payable under the lease for a full year.

- (3) In the year in which an aquaculture lease expires, the amount of rent payable is to be calculated as follows:

$$AP = \frac{DR}{365} \times AR$$

where:

*AP* represents the amount to be paid.

*DR* represents the number of days during the period beginning on the previous 1 July and ending with the date on which the lease ends.

*AR* represents the amount of rent payable under the lease for a full year.

- (4) If the rent payable under an aquaculture lease is redetermined by the Minister or otherwise altered, the Minister must make an appropriate adjustment to the rent payments.
- (5) If an aquaculture lease is terminated for any reason, the Minister:
- (a) may reduce, on a pro rata basis, any rent, contributions or other amounts that is owing, or
  - (b) must, if any rent, contributions or other amounts have been paid to the Minister for a period occurring after the date of termination, refund the appropriate proportion of rent, contributions or other amounts paid in advance.

#### 42 When rent payable

- (1) The first payment of rent under an aquaculture lease is payable before the lease is granted or renewed or within such period after the grant or renewal as the Minister allows.
- (2) After the first payment, the rent under an aquaculture lease must be paid in advance, either (at the lessee's option):
- (a) on or before 31 July in each year, or
  - (b) by instalments.

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- (3) For the purpose of subclause (2) (b), the Minister is required:
  - (a) to determine the amounts of the instalments that are payable, or the manner in which they are to be calculated, and
  - (b) to determine the dates on which the instalments are payable, and
  - (c) to notify the amounts (or the manner of the calculation) of the instalments, and the dates on which they are payable, to the lessee concerned.
- (4) If there is a failure to make a payment in accordance with such a notice, the Minister may treat the total unpaid balance as an overdue amount of rent even if payment by instalments has begun.

#### **43 Rent for leased area less than 1 hectare**

- (1) When calculating the rent for a leased area that is less than 1 hectare, the rent payable is a proportionate part of that rent per hectare.
- (2) However, when calculating the rent for a leased area of less than 0.1 hectare, the area is to be treated as if it were 0.1 hectare.

### **Division 4 Subletting, transferring and transmission of aquaculture leases**

#### **44 Fee payable for Minister's consent to subletting of leased area**

An application for the Minister's consent under section 172 of the Act to the subletting of a leased area must be accompanied by a processing fee of \$427.

**Note.** Section 172 of the Act allows a lessee of a leased area to sublet the area or a part of it, but only with the consent of the Minister.

#### **45 Procedure for getting Minister's consent to transfer of aquaculture lease**

- (1) An application for the Minister's consent under section 173 of the Act to the transfer of an aquaculture lease must be in a form approved by the Minister.
- (2) Such an application must be accompanied by:
  - (a) a transfer duly stamped in accordance with the *Duties Act 1997*, and
  - (b) the lease document, and
  - (c) a processing fee of \$671.
- (3) Despite subclause (2) (c), if more than one such application is made by the same applicant and lodged on the same day, the processing fee that must accompany the second (and each further) such application is \$61.



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- (4) The Minister may refuse such an application only on the ground that:
- (a) the application does not comply with this clause, or
  - (b) if the transferee is an individual—the transferee is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (c) if the transferee is a corporation—the transferee, or any of the directors or other persons concerned in the management of the transferee, is disqualified under section 161 of the Act from holding an aquaculture permit, or
  - (d) the transferor or the transferee has rent, contributions or other amounts payable to the Minister that are outstanding in respect of that or another aquaculture lease, or
  - (e) the transferee has, in the Minister's opinion, a poor record of managing one or more other leased areas, or
  - (f) in the Minister's opinion, it would otherwise not be in the public interest to grant the application.

**Note.** Section 173 of the Act allows the lessee under an aquaculture lease to transfer the lease, but only with the consent of the Minister.

#### **46 Transmission of aquaculture lease on lessee's death**

- (1) An aquaculture lease is transmissible by operation of law on the death of the lessee, subject to there being lodged with the Minister:
  - (a) such evidence of the death and the entitlement of the person claiming the lease as the Minister requires, and
  - (b) a processing fee of \$427.
- (2) Despite subclause (1) (b), if more than one such claim is made by the same applicant and lodged on the same day, the processing fee that must accompany the second (and each further) such claim is \$61.

### **Division 5 Surrender, consolidation and subdivision of aquaculture leases**

#### **47 Aquaculture lease may be surrendered**

- (1) An application to surrender an aquaculture lease must be in a form approved by the Minister, be lodged with the Minister and be accompanied by:
  - (a) the lease document, and
  - (b) a processing fee of \$305.

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- (2) Despite subclause (1) (b), if more than one such application is made by the same applicant and lodged on the same day, the processing fee that must accompany the second (and each further) such application is \$61.
- (3) An application to surrender part of a leased area must be in writing, be lodged with the Minister and be accompanied by:
  - (a) a description of the part that is affected sufficient to identify it, and
  - (b) a survey diagram or plan depicting that part, and
  - (c) the lease document, and
  - (d) a processing fee of \$427.
- (4) The surrender of a lease or of part of a leased area does not have effect unless the Minister has consented to it and the lessee has complied with any conditions that the Minister has imposed in giving the consent.
- (5) If, when giving consent to the surrender of part of a leased area, the Minister redetermines the rental of the lease, the Minister must provide the lessee with:
  - (a) an amended lease, and
  - (b) a certified copy of an amended plan of the leased area which excludes the part surrendered.
- (6) The Minister may, in a particular case, waive the fee required under subclause (1), (2) or (3).
- (7) The fee for the surrender of an aquaculture lease is not payable if the surrender is for the purpose of consolidating leases into a single lease.
- (8) The Minister may suspend or refund rent, contributions or other amounts payable or paid in respect of a leased area, or part of a leased area, that is the subject of an application under this clause if the rent, contributions or amounts relate to a period after the application was made and the Minister is satisfied that the lessee was not using the leased area or part as an aquaculture farm during that period.

**Note.** Section 174 of the Act enables a lessee to surrender the lease with the approval of the Minister.

#### **48 Aquaculture leases may be consolidated**

- (1) A lessee of 2 or more adjoining leased areas may apply for the consolidation of the leases into a single lease.
- (2) An application must:
  - (a) be in a form approved by the Minister, and
  - (b) be lodged with the Minister, and

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- (c) be accompanied by the lease documents and a processing fee of \$487.
  - (3) The Minister may grant, or refuse to grant, an application.
  - (4) If an application is granted, the Minister may decide any matters relating to:
    - (a) the term of the consolidated lease, and
    - (b) the covenants and conditions of the lease, and
    - (c) the rent payable for the lease, and
    - (d) any other matters necessary for the preparation of the lease document.
  - (5) A lessee is entitled to a consolidated lease only if the lease document for each of the leases that is to be consolidated is first lodged with the Minister for replacement.
  - (6) The Minister must, when an application for consolidation has been granted, provide the lessee with a certified copy of the plan of the leased area comprised in the consolidated lease.
  - (7) The Minister must publish in the Gazette notice of the consolidation of the lease.

**49 Aquaculture leases may be subdivided**

- (1) A lessee may apply for the subdivision of a lease (*the original lease*) into 2 or more leases.
- (2) An application for subdivision must:
  - (a) be in a form approved by the Minister, and
  - (b) be lodged with the Minister, and
  - (c) be accompanied by the lease document for the original lease and a processing fee of \$487.
- (3) The Minister may grant, or refuse to grant, an application.
- (4) If an application is granted, the terms of the leases that result from the subdivision are to be the same as the remainder of the term of the original lease.
- (5) The Minister may decide any matters relating to:
  - (a) the covenants and conditions of the leases that result from the subdivision, and
  - (b) the rent payable for the leases, and
  - (c) any other matters necessary for the preparation of the lease documents.

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- (6) A lessee is entitled to the leases that result from a subdivision only if the lease document for the original lease is lodged with the Minister for replacement.
- (7) The Minister must, when an application for subdivision has been granted, provide the lessee with a certified copy of the plan of the leased area comprised in each lease.
- (8) The Minister must publish notice of the subdivision of the lease in the Gazette.
- (9) The subdivision of an original lease into 2 or more leases does not affect the application of section 167 (3) of the Act to the first renewal of those leases after the grant of the original lease.

## **Division 6 Aquaculture lease plans and documents**

### **50 Certified copy of lease or plan**

- (1) If an aquaculture lease document or a plan annexed to such a document is lost or destroyed, the Minister may issue to the lessee a certified copy of the document or plan subject to:
  - (a) payment of a fee of \$61, and
  - (b) provision of a statutory declaration setting out the circumstances in which the original document or plan was lost or destroyed.
- (2) A certified copy of an aquaculture lease document may be lodged with the Minister instead of the original if at any time the document is required to be lodged with the Minister under this Regulation or with any other person for any other lawful purpose.
- (3) The Minister may:
  - (a) provide any person with a copy of a survey plan or map relating to an aquaculture lease, and
  - (b) certify the copy as being a true copy of the original, and
  - (c) charge a fee for the copy not exceeding \$61.

### **51 Minister's duties with respect to endorsing lease documents**

- (1) The Minister must make any endorsement on an aquaculture lease document necessary to record:
  - (a) any transfer, subletting, partial surrender, withdrawal or access way affecting the lease, or
  - (b) if the lease is cancelled, the cancellation of the lease.

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- (2) The Minister may make any endorsement on an aquaculture lease document necessary to record any consent or other matter affecting the lease.
- (3) The Minister must, at the request of the lessee and the other party to the dealing, endorse on an aquaculture lease document the particulars of any mortgage, charge or other interest to which the document is subject.
- (4) If a mortgage, charge or other interest affecting an aquaculture lease is discharged, the Minister must, at the request of the lessee and the other party to the dealing, endorse on the lease document particulars of the discharge.
- (5) The Minister may refuse to consent to a dealing relating to an aquaculture lease, and the Minister may refuse to make an endorsement on an aquaculture lease document under subclause (1), if an undischarged mortgage, charge or other interest is endorsed on the lease document and the mortgagee, chargee or holder of the interest concerned has not consented to the dealing.

**52 When Minister can require aquaculture lessee to lodge lease document**

- (1) The Minister may, by notice in writing, direct a lessee or other person in possession of an aquaculture lease document to lodge the lease document with the Minister, within such period as is specified in the notice, in order to enable the Minister to endorse the lease document or for any other lawful purpose.
- (2) The Minister must return an aquaculture lease document lodged under this clause as soon as practicable after it has been endorsed or the purpose for which the document was lodged has been achieved. This subclause does not apply when the endorsement relates to a cancellation of the lease.
- (3) A person who fails, without reasonable excuse, to comply with a direction under this clause is guilty of an offence.  
Maximum penalty: 10 penalty units.

**53 Minister can correct errors in aquaculture leases and other documents**

The Minister may correct an error in an aquaculture lease document or in any map, plan or other document relating to an aquaculture lease.

**Division 7 Marking of leased areas, boat channels and access ways**

**54 Obligations of aquaculture lessee to mark out leased area**

- (1) A lessee must mark out in accordance with this clause the boundaries of the area leased:

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- (a) within 30 days after the beginning of the lease, or
- (b) within such further period as the Minister may allow.

Maximum penalty: 10 penalty units.

- (2) The boundaries of the leased area must be marked out in accordance with any relevant aquaculture industry development plan.
- (3) If the Minister or a fisheries officer directs the lessee by notice in writing that he or she is satisfied that the method of marking out prescribed by subclause (2) is impracticable or unsuitable in a particular case and directs the lessee to mark out the boundaries of the area in some other way, those boundaries must be marked out in that way.
- (4) The Minister may charge a fee of \$61 for each additional lease sign supplied after the initial issue of a sign.
- (5) A lessee must ensure that the boundaries of the leased area continue to be marked as required by this clause for the duration of the lease.  
Maximum penalty: 10 penalty units.
- (6) A person must not mark out an area of public water land as an aquaculture farm, or in a way that is likely to lead persons to believe that the area is an aquaculture farm, unless the person is the lessee of the area or is authorised by the lessee to mark out the area.  
Maximum penalty: 10 penalty units.  
**Note.** *Public water land* is defined in section 4 (1) of the Act.
- (7) This clause applies to:
  - (a) a lease that consolidates 2 or more leases that have been surrendered, and
  - (b) a lease part of the area of which has been surrendered, and
  - (c) a renewed lease,
 in the same way as it applies to a new lease.

**55 Obligations of aquaculture lessee to mark out boat channel**

- (1) A lessee of an area that adjoins a boat channel must, before the deadline, mark out the boat channel in accordance with this clause. The deadline is the end of 30 days after the date of service on the lessee of a direction in writing by the Minister or a fisheries officer directing the lessee to comply with this clause.
- (2) A boat channel must be marked out in accordance with any relevant aquaculture industry development plan.
- (3) If the Minister or a fisheries officer directs the lessee by notice in writing that he or she is satisfied that the method of marking out prescribed by subclause (2) is impracticable or unsuitable in a particular

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Clause 56

Aquaculture leases

Part 4

case and directs the lessee to mark out the area in some other way, the boat channel must be marked out in that way.

- (4) A lessee must ensure that, while a direction under this clause remains in force in relation to a boat channel, the channel continues to be marked as required by this clause for the duration of the aquaculture lease concerned.

Maximum penalty: 10 penalty units.

**56 Obligations of aquaculture lessee to mark out an access way**

- (1) An application under section 175 (1) of the Act must be accompanied by a certified copy of the map of the leased area marked with the proposed access way.
- (2) If the Minister has determined an access way under section 175 (2) of the Act, the lessee must, before the deadline, mark out the access way in accordance with this clause. The deadline is the end of 30 days after the date of service on the lessee of a direction given in writing by the Minister or a fisheries officer requiring the access way to be marked out or such further period as the Minister may allow.
- (3) An access way must be marked out in accordance with any relevant aquaculture industry development plan, or if the Minister so requires, be marked out in accordance with the Minister's directions under section 175. Each of the posts, or such of the posts as may be specified in the direction, must have fixed to it at or near the top a white sign or a batten that complies with subclause (4).
- (4) A sign or batten complies with this subclause if:
- (a) it has the words "ACCESS WAY" depicted on it, and
  - (b) those words are in black letters that are not less than 75 millimetres high.
- (5) In the case of an access way determined in respect of a class 2 lease or a class 3 lease, the lessee must mark out the access way in the manner prescribed by the determination.
- (6) A lessee must ensure that the markings required by this clause are maintained for the duration of the term of the aquaculture lease concerned, unless the access way is terminated before that lease is terminated.

Maximum penalty: 10 penalty units.

**Note.** Section 175 of the Act allows the Minister to determine an access way for a leased area.

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Part 4 Aquaculture leases

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#### **57 Notice to maintain markings**

- (1) If at any time during the term of an aquaculture lease it appears to the Minister that the markings required by this Division are not being properly maintained, the Minister may, by notice in writing served on the lessee, require the lessee, within a period specified in the notice, to ensure that the markings comply with this Division. The period specified must be not less than 7 days after the service of the notice.
- (2) If, on being served with such a notice, the lessee fails to comply with the notice within the specified period, any fisheries officer may, with or without assistants, enter the lessee's area and undertake such work (including the installation of posts, signs and other structures) as may be necessary to ensure that the markings comply with this Division.
- (3) The Minister may, by proceedings brought in a court of competent jurisdiction, recover as a debt due to the Crown the cost of carrying out work under this clause.

#### **58 Minister may modify boundaries of leased area**

- (1) The Minister may, at any time, modify the boundaries of a leased area for the purpose of rectifying errors of measurement.
- (2) If such a modification increases or reduces the area of a leased area, the Minister may make a proportionate increase or reduction, as appropriate, to the rent, contributions and other amounts that the lessee is required to pay for the area.

### **Division 8 Public rights**

#### **59 Additional public right to which aquaculture lease is subject**

- (1) The right of the owner or the lawful occupier of any land adjoining a leased area to drain the surface water off the land on to the area is a recognised right for the purposes of section 164 (3) of the Act. This subclause does not apply to water accumulated by an act of that owner or occupier, or an agent of either of them, or as a result of works on the land carried out by or with the approval of that owner or occupier.
- (2) A lessee is not entitled to compensation for any damage to the leased area or to the stock on the area caused by the reasonable exercise of the right referred to in subclause (1).

**Note.** The right conferred by this clause is in addition to the right of fishing conferred by section 164 (3) of the Act.



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Clause 60

Diseased fish and marine vegetation

Part 5

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## Part 5 Diseased fish and marine vegetation

### 60 Diseases declared for purposes of Division 4 of Part 6 of the Act

- (1) The diseases listed in this clause are declared to be diseases in respect of which Division 4 of Part 6 of the Act applies.
- (2) The following diseases are declared to be class A diseases:
  - (a) in relation to finfish:
    - (i) epizootic haematopoietic necrosis—EHN virus,
    - (ii) epizootic haematopoietic necrosis—European catfish virus/European sheatfish virus,
    - (iii) infectious haematopoietic necrosis,
    - (iv) *Oncorhynchus masou* virus disease,
    - (v) spring viraemia of carp,
    - (vi) viral haemorrhagic septicaemia,
    - (vii) channel catfish virus disease,
    - (viii) viral encephalopathy and retinopathy,
    - (ix) infectious pancreatic necrosis,
    - (x) infectious salmon anaemia,
    - (xi) epizootic ulcerative syndrome (*Aphanomyces invadans*),
    - (xii) bacterial kidney disease (*Renibacterium salmoninarum*),
    - (xiii) enteric septicaemia of catfish (*Edwardsiella ictaluri*),
    - (xiv) piscirickettsiosis (*Piscirickettsia salmonis*),
    - (xv) gyrodactylosis (*Gyrodactylus salaris*),
    - (xvi) red sea bream iridoviral disease,
    - (xvii) white sturgeon iridoviral disease,
    - (xviii) furunculosis (*Aeromonas salmonicida* subsp. *salmonicida*),
    - (xix) *Aeromonas salmonicida*—atypical strains,
    - (xx) whirling disease (*Myxobolus cerebralis*),
    - (xxi) enteric redmouth disease (*Yersinia ruckeri*—Hagerman strain),
    - (xxii) infection with koi herpesvirus,
    - (xxiii) grouper iridoviral disease,
  - (b) in relation to molluscs:
    - (i) infection with *Bonamia ostreae*,
    - (ii) infection with *Bonamia* species,
    - (iii) infection with *Bonamia exitiosa*,

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Part 5 Diseased fish and marine vegetation

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- (iv) infection with *Mikrocytos roughleyi*,
  - (v) infection with *Mikrocytos mackini*,
  - (vi) infection with *Marteilia refringens*,
  - (vii) infection with *Marteilia sydneyi*,
  - (viii) infection with *Perkinsus marinus*,
  - (ix) infection with *Perkinsus olseni*,
  - (x) infection with *Haplosporidium nelsoni*,
  - (xi) infection with *Haplosporidium costale*,
  - (xii) infection with *Xenohalotis californiensis*,
  - (xiii) Akoya oyster disease,
  - (xiv) iridoviroses,
- (c) in relation to crustaceans:
- (i) Taura syndrome,
  - (ii) white spot disease,
  - (iii) yellowhead disease,
  - (iv) gill-associated virus,
  - (v) tetrahedral baculovirus (*Baculovirus penaei*),
  - (vi) spherical baculovirus (*Penaeus monodon*-type baculovirus),
  - (vii) infectious hypodermal and haematopoietic necrosis,
  - (viii) crayfish plague (*Aphanomyces astaci*),
  - (ix) spawner-isolated mortality virus disease,
  - (x) necrotising hepatopancreatitis,
  - (xi) baculoviral midgut gland necrosis,
  - (xii) white tail disease.
- (3) The following diseases are declared to be class B diseases:
- (a) types of finfish:
- (i) *Oreochromis mossambicus* (Mozambique Mouthbrooder),
  - (ii) *Tilapia zillii* (Redbelly Tilapia),
  - (iii) *Tilapia mariae* (Black Mangrove Cichlid),
  - (iv) *Neogobius melanostomus* (Round Goby),
  - (v) *Siganus rivulatus* (Marbled Spinefoot, Rabbit Fish),
- (b) types of crustaceans:
- (i) *Eriocheir* spp. (Chinese Mitten Crab),
  - (ii) *Charybdis japonica* (Lady Crab),
  - (iii) *Hemigrapsus sanguineus* (Japanese/Asian Shore Crab),

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Diseased fish and marine vegetation

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- (iv) *Hemigrapsus takanoi/penicillatus* (Pacific Crab),
  - (v) *Carcinus maenas* (European Green Crab),
  - (vi) *Balanus improvisus* (Barnacle),
  - (c) types of molluscs:
    - (i) *Mytilopsis sallei* (Black Striped Mussel),
    - (ii) *Perna viridis* (Asian Green Mussel),
    - (iii) *Perna perna* (Brown Mussel),
    - (iv) *Perna canaliculus* (New Zealand Green Lipped Mussel),
    - (v) *Musculista senhousia* (Asian Bag Mussel, Asian Date Mussel),
    - (vi) *Corbula (Potamocorbula) amurensis* (Asian Clam, Brackish-Water Corbula),
    - (vii) *Varicorbula gibba* (European Clam),
    - (viii) *Mya arenaria* (Soft Shell Clam),
    - (ix) *Ensis directus* (Jack-Knife Clam),
    - (x) *Rapana venosa* (syn *Rapana thomasi*) (Rapa Whelk),
    - (xi) *Crepidula fornicata* (American Slipper Limpet),
    - (xii) *Maoricolpus roseus* (New Zealand Screwshell),
  - (d) type of echinoderms:
    - Asterias amurensis* (Northern Pacific Seastar),
  - (e) type of ascidians:
    - Didemnum vexillum/lahillei* (Colonial Sea Squirt),
  - (f) types of polychaetes:
    - (i) *Marenzelleria* spp. (Red Gilled Mudworm),
    - (ii) *Sabella spallanzanii* (European Fan Worm),
  - (g) type of ctenophores:
    - Mnemiopsis leidyi* (Comb Jelly),
  - (h) types of marine vegetation:
    - (i) *Undaria pinnatifida* (Japanese Seaweed),
    - (ii) *Grateloupia turuturu* (Red Macroalga),
    - (iii) *Sargassum muticum* (Asian Seaweed),
    - (iv) *Caulerpa taxifolia* (Green Macroalga),
    - (v) *Codium fragile tomentosoides* (Green Macroalga),
  - (i) types of holoplankton:
    - (i) *Pfiesteria piscicida* (Toxic Dinoflagellate),
    - (ii) *Pseudo-nitzschia seriata* (Pennate Diatom),
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Part 5 Diseased fish and marine vegetation

- (iii) *Dinophysis norvegica* (Toxic Dinoflagellate),
- (iv) *Alexandrium monilatum* (Toxic Dinoflagellate),
- (v) *Chaetoceros concavicornis* (Centric Diatom),
- (vi) *Chaetoceros convolutus* (Centric Diatom).

#### 61 Notification of diseases

- (1) If a person knows or reasonably suspects that any of the waters to which the Act applies is or may be infected with a class A or class B disease, the person must notify a fisheries officer as soon as practicable of the infection or suspected infection.  
Maximum penalty: 10 penalty units.
- (2) If a person to whom subclause (3) applies knows or reasonably suspects that any place referred to in subclause (3) (c) is or may be infected with a class A or class B disease, the person must notify a fisheries officer as soon as practicable of the infection or suspected infection.  
Maximum penalty: 10 penalty units.
- (3) Subclause (2) applies to the following persons:
  - (a) a veterinary practitioner,
  - (b) any person who otherwise attends or consults in respect of fish or marine vegetation,
  - (c) the owner or occupier (or any employee of the owner or occupier) of any of the following places:
    - (i) an area to which an aquaculture permit relates,
    - (ii) a pet shop or the premises of a pet shop supplier or wholesaler,
    - (iii) an aquarium retailer or wholesaler or aquarium kept for commercial purposes,
    - (iv) a research establishment or analytical or diagnostic laboratory,
    - (v) a farm containing a dam or other impounded waters,
    - (vi) a boat or vessel,
    - (vii) a port.
- (4) A person is not required to notify a fisheries officer under this clause if the infection or suspected infection has already been notified to a fisheries officer.

#### 62 Order declaring quarantine area

An order under section 183 of the Act declaring a quarantine area is authorised to contain the following provisions:

Fisheries Management (Aquaculture) Regulation 2007

Clause 62

Diseased fish and marine vegetation

Part 5

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- (a) provisions that require all or any specified classes of fish or marine vegetation taken in or from a quarantine area to be landed at a location or locations in or near the quarantine area determined by the Minister and notified to the occupier of the quarantine area concerned,
  - (b) provisions that require all or any specified classes of fish or marine vegetation taken in or from a quarantine area to be inspected, tested or cooked, or otherwise treated or handled, in any other specified manner before the fish or marine vegetation are sold, removed from a location or locations referred to in paragraph (a), or removed from the vicinity of the quarantine area,
  - (c) provisions that prohibit, absolutely or conditionally, equipment or infrastructure used in the taking or cultivation of fish or marine vegetation in a quarantine area from being moved from that area, or that require such equipment or infrastructure to be tested or treated or handled in any specified manner before being so moved,
  - (d) provisions that require, in the case of an area not subject to an aquaculture permit, the destruction or treatment of fish or marine vegetation cultivated or located in the area.

Clause 63 Fisheries Management (Aquaculture) Regulation 2007

Part 6 Miscellaneous

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## Part 6 Miscellaneous

### 63 Withdrawal of application under this Regulation and refund of certain fees

- (1) This clause applies to:
  - (a) an application for an aquaculture lease, and
  - (b) an application for the renewal of such a lease, and
  - (c) an application for consent to sublet such a lease, and
  - (d) an application for consent to transfer such a lease, and
  - (e) an application to surrender such a lease or part of a leased area, and
  - (f) an application to consolidate 2 or more such leases.
- (2) The applicant in relation to an application to which this clause applies may withdraw the application by notice in writing served on the Minister.
- (3) The applicant in relation to an application to which this clause applies is not entitled to a refund of the processing fee payable to the Minister by the applicant in respect of the application if the application is withdrawn or refused.
- (4) However, the Minister may refund the whole or a part of that fee in such circumstances as the Minister considers appropriate.

### 64 Information to be specified on containers of shellfish and other aquaculture products for sale

- (1) The purpose of this clause is to prevent the spread of fish diseases and noxious fish.
- (2) A person must not consign or convey unopened shellfish for sale in a container that does not have marked, in a legible and durable manner, on the outside:
  - (a) the name of the consignor or packer, and
  - (b) the name in full of the estuary, bay or other area where the shellfish were grown, and
  - (c) the species of shellfish that it contains.Maximum penalty: 50 penalty units.
- (3) A person must not consign or convey aquaculture products (other than shellfish) for sale in a container that does not have marked, in a legible and durable manner, on the outside:
  - (a) the name of the supplier, and

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Clause 65

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Part 6

- (b) the supplier's Aquaculture Permit Number, and
- (c) the batch identification details, and
- (d) the species and type (for example, live fish, whole or gilled and gutted) of aquaculture product that it contains.

Maximum penalty: 50 penalty units.

- (4) A person must not, without reasonable excuse, consign or convey for sale in the same container unopened shellfish of different species.

Maximum penalty: 50 penalty units.

- (5) This clause does not apply to the consignment or conveyance of shellfish from one area to another area for further growth.

- (6) This clause does not apply to the consignment or conveyance of live aquaculture products (other than shellfish) if bulk live fish transport containers (for example, drums, vats or tanks) are used in the consignment or conveyance and records of the consignment or conveyance are maintained in the transport vehicle.

- (7) In this clause:

*batch identification details*, in relation to aquaculture products, means:

- (a) the date that the aquaculture product was processed or packed, or
- (b) an identifier used in relation to the aquaculture product in accordance with a quality assurance program.

*shellfish* means aquatic molluscs, crustaceans or echinoderms.

#### **65 Obligations of authorised deposit-taking institutions concerning trust accounts**

- (1) An authorised deposit-taking institution does not, in relation to a transaction on a trust account kept under this Regulation:

- (a) incur any obligation to make inquiries, or any liability, other than an obligation or liability to which it would be subject apart from this Regulation, or
- (b) have imputed to it any knowledge of the right of a person to money credited to the account,

that it would not incur, or have imputed to it, if the account were kept by the authorised deposit-taking institution for a person absolutely entitled to the money credited to it.

- (2) An authorised deposit-taking institution at which the Minister keeps a trust account under this Regulation has no recourse against money at credit in the account in respect of a liability of the Minister to the authorised deposit-taking institution other than a liability in respect of the account.

Clause 66 Fisheries Management (Aquaculture) Regulation 2007

Part 6 Miscellaneous

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- (3) In subclause (2), *recourse* includes any right by way of set off, counter-claim or charge or otherwise.

**66 Permit required to gather marine vegetation for commercial purposes**

- (1) A person must not gather marine vegetation for a commercial purpose from any area of public water land except under the authority of a permit issued by the Minister under this clause.

Maximum penalty: 50 penalty units.

**Note.** *Public water land* is defined in section 4 (1) of the Act.

- (2) A permit applies to the gathering of marine vegetation only in the area specified in the permit.
- (3) A permit is not required for the gathering of marine vegetation in accordance with an aquaculture permit or a permit under Part 7 of the Act.
- (4) A permit may apply to marine vegetation generally or to a particular class of marine vegetation specified in the permit.
- (5) An application for a permit is to be made in writing to the Minister in a form approved by the Minister.
- (6) If a person duly makes an application for a permit, the Minister may issue, or may refuse to issue, a permit.
- (7) A permit remains in force, unless sooner cancelled or suspended by the Minister, until the expiration of the period specified in the permit.
- (8) A permit is subject to the following conditions and such further conditions as are attached to the permit by the Minister:
- (a) marine vegetation must not be gathered from any area if commercial fishing is taking place in the area unless, at the time the commercial fishing commenced in that area, marine vegetation was being gathered from the area in accordance with the permit,
  - (b) marine vegetation must not be gathered from any land that is held under any title granted by the Crown,
  - (c) marine vegetation must not be gathered from any marked navigation channel,
  - (d) marine vegetation must not be gathered from any area in which a public work is being carried out.
- (9) The Minister may, from time to time, by notice given to the permit holder, vary the further conditions of a permit.
- (10) The fee for a permit under this clause, or for the renewal of such a permit, is \$122.



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Clause 67

Miscellaneous

Part 6

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(11) In this clause, *gather* includes collect.

**67 Fee for permit under section 37**

- (1) An application for a permit under section 37 (1) of the Act, being a permit that authorises a person to take and possess fish or marine vegetation for aquaculture purposes, is to be accompanied by a processing fee of \$182.
- (2) The Minister may waive all or part of the fee payable under this clause in such cases as the Minister considers appropriate.

**68 Saving**

Any act, matter or thing that, immediately before the repeal of the *Fisheries Management (Aquaculture) Regulation 2002*, had effect under that Regulation is taken to have effect under this Regulation.

Fisheries Management (Aquaculture) Regulation 2007

Provisions relating to members and procedure of committees

Schedule 1

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## Schedule 1 Provisions relating to members and procedure of committees

(Clause 16)

### 1 Definitions

In this Schedule:

*committee* means a committee appointed by the Minister in respect of a trust account under section 157 (4) of the Act.

*member* means a member of a committee.

### 2 Appointment of members

(1) The Minister may convene a selection committee (including representatives of the aquaculture industry) for the purpose of recommending persons for appointment as members of a committee.

(2) The chairperson of a committee is to be the member of the committee for the time being appointed by the Minister as chairperson.

**Note.** Section 157 (4) of the Act provides that the Minister is to appoint members of a committee to advise the Minister as to the amount of contributions that are to be paid into a trust account established under section 157 (2) of the Act and of the money held in the trust account. Section 157 (7) of the Act requires the Minister to ensure that a majority of the members of the committee are representatives of the aquaculture industry.

### 3 Deputy members

(1) The Minister may, from time to time, appoint a person to be the deputy of a member, and may at any time revoke any such appointment.

(2) In the absence of a member, the member's deputy:

(a) may, if available, act in the place of the member, and

(b) while so acting, has all the functions of the member and is to be taken to be the member.

(3) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

### 4 Terms of office of member

Subject to this Schedule, a member holds office for such term (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

## Fisheries Management (Aquaculture) Regulation 2007

Provisions relating to members and procedure of committees

Schedule 1

**5 Allowances for member**

A member is entitled to be paid such allowances as the Minister from time to time determines in respect of the member.

**6 Vacancy in office of member**

The office of a member 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
- (d) is removed from office by the Minister under section 157 (9) of the Act, or
- (e) is absent from 3 consecutive meetings of the 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 committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the committee for having been absent from those meetings, or
- (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.

**7 Filling of vacancy in office of member**

If the office of a member becomes vacant, a person is, subject to the Act, required to be appointed to fill the vacancy.

**8 Disclosure of pecuniary interests**

- (1) A member of a committee:
  - (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the committee, and
  - (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

## Fisheries Management (Aquaculture) Regulation 2007

## Provisions relating to members and procedure of committees

## Schedule 1

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- must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the committee.
- (2) A disclosure by a member of a committee at a meeting of the committee that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
  - (b) is a partner, or is in the employment, of a specified person, or
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.
- (3) Particulars of any disclosure made under this clause must be recorded by the members of the committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the members of the committee.
- (4) After a member of the committee has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the other members of the committee otherwise determine:
- (a) be present during any deliberation of the committee with respect to the matter, or
  - (b) take part in any decision of the committee with respect to the matter.
- (5) For the purposes of the making of a determination by the members of the committee under subclause (4), a member of the committee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the other members of the committee for the purpose of making the determination, or
  - (b) take part in the making by the other members of the committee of the determination.
- (6) A contravention of this clause does not invalidate any decision of the committee.
- (7) A member is taken not to have an interest in a matter for the purposes of this clause merely because the member is the holder of an aquaculture permit or aquaculture lease.

Fisheries Management (Aquaculture) Regulation 2007

Provisions relating to members and procedure of committees

Schedule 1

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**9 General procedure for calling and holding meetings of a committee**

The procedure for the calling and holding of meetings of a committee is, subject to any direction by the Minister, to be determined by the committee.

**10 Quorum**

The quorum for a meeting of a committee is a majority of its members for the time being.

**11 Presiding member and voting rights**

- (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 a meeting of a committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**12 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.

Fisheries Management (Aquaculture) Regulation 2007

Forms

Schedule 2

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## Schedule 2 Forms

### Form 1

(Clauses 37 (1) (b) and 39 (1) (b))

Fisheries Management Act 1994

#### AQUACULTURE LEASE/RENEWAL OF AQUACULTURE LEASE

I, the Minister for....., lease on behalf of the Crown the aquaculture farm described below to you, the lessee, for the term, at the rent and on the conditions (if any) specified below.

<b>Your name</b>	
<b>Your residential address</b>	
<b>The area of your lease permit</b>	
<b>The description of the leased area</b>	
<b>The date when the lease starts</b>	
<b>The rent payable for the lease (per year)</b>	
<b>Special conditions applicable to the lease</b>	1. 2. 3. 4. 5. 6.

**Note.** The rent is subject to periodic redetermination as provided by section 165 (2) of the *Fisheries Management Act 1994*.

#### Lessee's covenants

You, the lessee, agree that you will:

- (a) comply with the provisions of the *Fisheries Management Act 1994* ("the Act") and the *Fisheries Management (Aquaculture) Regulation 2007* ("the Regulation"), and
- (b) pay rent for your farm yearly in advance or by instalments as required by the Act and the Regulation, and
- (c) ensure that your farm is used only for aquaculture and that the cultivation of fish or marine vegetation on the farm is carried out in accordance with any relevant aquaculture industry development plan notified from time to time by the Director-General of the Department of Primary Industries, and
- (d) ensure that your farm is kept in a neat and tidy condition to the satisfaction of the Director-General of the Department of Primary Industries.

Fisheries Management (Aquaculture) Regulation 2007

Forms

Schedule 2

You also agree to adjust the areas of cultivation on your farm so as to allow safe navigation if existing channels change or something else happens that requires those channels to be altered.

**Conditions of the lease**

It is a condition of this lease that I may cancel it if you fail to comply with a notice served on you in accordance with section 162 (2) or 213 (3) of the Act (in your capacity as the holder of an aquaculture permit) within the period specified in the notice.

**Note.** This is a condition of the lease referred to in section 177 (1) (d) of the Act. Section 177 specifies other grounds on which the lease may be cancelled, including non-payment of rent.

Dated this..... day of..... 20.....

.....  
My or my delegate's signature

.....  
Witness to my or my delegate's signature

.....  
Your signature

.....  
Witness to your signature



New South Wales

# Fluoridation of Public Water Supplies Regulation 2007

under the

Fluoridation of Public Water Supplies Act 1957

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Fluoridation of Public Water Supplies Act 1957*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Fluoridation of Public Water Supplies Regulation 2002*, which is to be repealed by section 10 (2) of the *Subordinate Legislation Act 1989* on 1 September 2007. The new Regulation deals with a number of matters relating to the fluoridation of public water supplies and the regulation of certain activities with respect to water supply works.

This Regulation is made under the *Fluoridation of Public Water Supplies Act 1957*, including section 11 (the general regulation-making power).

This Regulation refers to a *Code of Practice for the Fluoridation of Public Water Supplies*, published in the Government Gazette.



## Fluoridation of Public Water Supplies Regulation 2007

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Fluoridation of Public Water Supplies Regulation 2007

Clause 1

Preliminary

Part 1

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## Fluoridation of Public Water Supplies Regulation 2007

under the

Fluoridation of Public Water Supplies Act 1957

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Fluoridation of Public Water Supplies Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Fluoridation of Public Water Supplies Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

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

**fluoridating agent** means a substance containing fluorine or a compound of fluorine.

**Fluoridation Code** means the document entitled *Code of Practice for the Fluoridation of Public Water Supplies* as published by the Director-General from time to time in the Gazette.

**Note.** For the Fluoridation Code, see Gazette No 135 of 30.8.2002, p 7776.

**qualified operator** means a person who has successfully completed a course of training in the fluoridation of water supplies, being a course recognised by the Fluoridation Code.

**the Act** means the *Fluoridation of Public Water Supplies Act 1957*.

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

Clause 4 Fluoridation of Public Water Supplies Regulation 2007

Part 2 Fluoridation of public water supplies

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## **Part 2 Fluoridation of public water supplies**

### **4 Applications to fluoridate a public water supply**

An application by a water supply authority for approval to fluoridate a public water supply is to be in the form required by the Fluoridation Code and is to be accompanied by any documents that are required by the form.

### **5 Fluoridation equipment**

A water supply authority must not fluoridate a public water supply under its control unless it uses equipment that allows for accurate fluoride dosing within the limits allowed by the Fluoridation Code.

Maximum penalty: 25 penalty units and, in the case of a continuing offence, an additional 5 penalty units for each additional day for which the offence continues.

### **6 Alterations to water supply capacity, water supply works and fluoridating apparatus**

(1) A water supply authority that adds a fluoridating agent to any public water supply under its control:

- (a) must not increase the maximum capacity, or reduce the minimum capacity, of the water supply, and
- (b) must not make substantial alterations to the equipment or apparatus by which the agent is added to the water supply, and
- (c) must not make any substantial alterations to those parts of the water supply works that are in close proximity to the point at which the agent is added to the water supply,

except with the written approval of the Director-General.

Maximum penalty: 25 penalty units and, in the case of a continuing offence, an additional 5 penalty units for each additional day for which the offence continues.

(2) This clause does not apply to alterations that are permitted by or under the Fluoridation Code.

### **7 Analyses of water samples**

(1) A water supply authority must collect from any public water supply fluoridated by it any samples of water that are required to be collected by the Fluoridation Code.

(2) The authority must analyse the samples for their fluoride content using the equipment and methods recognised by the Fluoridation Code.

Fluoridation of Public Water Supplies Regulation 2007

Clause 8

Fluoridation of public water supplies

Part 2

- 
- (3) A water supply authority must forward:
- (a) the results of the analyses carried out by it under this clause during the previous month, and
  - (b) a sample of the water from the authority's reticulation system, to the persons, and at the times, required by the Fluoridation Code.

Maximum penalty: 25 penalty units and, in the case of a continuing offence, an additional 5 penalty units for each additional day for which the offence continues.

- (4) A water supply authority must also forward to the Director-General additional samples of water from the authority's reticulation system as the Director-General may from time to time require.

Maximum penalty: 25 penalty units and, in the case of a continuing offence, an additional 5 penalty units for each additional day for which the offence continues.

## 8 Fluoridation to be carried out by qualified operators

A water supply authority must not, except as allowed by the Fluoridation Code, cause or permit a public water supply to be fluoridated by any person who is not a qualified operator.

Maximum penalty: 25 penalty units and, in the case of a continuing offence, an additional 5 penalty units for each additional day for which the offence continues.

## 9 Security of plant rooms

- (1) A water supply authority must ensure that premises containing any fluoridating agent, or any fluoridation plant or equipment, are kept locked whenever a qualified operator is not in attendance at those premises.

Maximum penalty: 25 penalty units and, in the case of a continuing offence, an additional 5 penalty units for each additional day for which the offence continues.

- (2) A person who is not a qualified operator must not enter any such premises unless:

- (a) in the company of a qualified operator, or
- (b) with the approval of a qualified operator.

Maximum penalty: 10 penalty units.

- (3) An approval referred to in subclause (2) (b) may be given only in accordance with the provisions of the Fluoridation Code.

**Note.** Other matters relating to safety can be found in the *Occupational Health and Safety Regulation 2001*.

Clause 10 Fluoridation of Public Water Supplies Regulation 2007

Part 3 Miscellaneous

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## **Part 3 Miscellaneous**

### **10 Records**

- (1) A water supply authority must keep records as required by the Fluoridation Code.
- (2) A water supply authority must cause a copy of those records to be forwarded to the Director-General if the Director-General so requires.

### **11 Saving**

Any act, matter or thing that had effect under the *Fluoridation of Public Water Supplies Regulation 2002* immediately before the repeal of that Regulation is taken to have effect under this Regulation.



New South Wales

# Hay Irrigation Regulation 2007

under the

Hay Irrigation Act 1902

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Hay Irrigation Act 1902*.

ANTHONY KELLY, M.L.C.,  
Minister for Lands

## Explanatory note

This Regulation remakes, without any major changes in substance, the *Hay Irrigation Regulation 2002*. That Regulation will be repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The object of this Regulation is to provide for the following matters:

- (a) the recovery of amounts payable under the *Hay Irrigation Act 1902*,
- (b) the charging of interest on arrears of rent,
- (c) the making of applications for the consent of the Lands Administration Ministerial Corporation to transfers or other dealings,
- (d) the surrender of leases,
- (e) the granting of licences to occupy,
- (f) other matters of a minor, consequential or ancillary nature.

This Regulation is made under the *Hay Irrigation Act 1902*, including section 29 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature.

Hay Irrigation Regulation 2007

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Hay Irrigation Regulation 2007

Clause 1

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## Hay Irrigation Regulation 2007

under the

Hay Irrigation Act 1902

### 1 Name of Regulation

This Regulation is the *Hay Irrigation Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Hay Irrigation Regulation 2002* which is repealed on 1 September 2007 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 Ministerial Corporation.

**Hay District Office** means the district office at Hay of the part of the Department of Lands operating under the name of "Crown Lands NSW".

**Ministerial Corporation** means the Lands Administration Ministerial Corporation constituted by the *Crown Lands Act 1989*.

**the Act** means the *Hay Irrigation Act 1902*.

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

### 4 Recovery of amounts payable under the Act

Any amount payable under the Act may be recovered as a debt due to the Ministerial Corporation.

### 5 Interest on arrears of rent

(1) Any rent payable under the Act accrues interest at the rate prescribed for the time being under section 148 (2) of the *Crown Lands Act 1989*.

(2) The Ministerial Corporation may, if it is satisfied that the circumstances so warrant, postpone or waive payment of the whole or any part of any interest payable under this clause or remit the whole or any part of any interest that has been paid.



Clause 6 Hay Irrigation Regulation 2007

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**6 Applications for consent to transfers or other dealings**

- (1) An application for the consent of the Ministerial Corporation to a transfer or other dealing, as referred to in section 23 of the Act, must be lodged at the Hay District Office.
- (2) The application must be accompanied by a fee of the amount prescribed for the time being under clause 9 of the *Crown Lands (Continued Tenures) Regulation 2006*.

**7 Surrender of leases**

- (1) A lessee may at any time, with the consent of the Ministerial Corporation, surrender the lease or part of the lease.
- (2) The Ministerial Corporation may accept a surrender.

**8 Granting of licences to occupy**

- (1) The Ministerial Corporation may grant licences to occupy land within the Area subject to such conditions as it determines.
- (2) A licence to occupy may be terminated at any time by either party by notice in writing to the other party.

**9 Savings**

Any act, matter or thing that, immediately before the repeal of the *Hay Irrigation Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.



New South Wales

# Health Care Liability Regulation 2007

under the

Health Care Liability Act 2001

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Care Liability Act 2001*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake, without substantial changes, the provisions of the *Health Care Liability Regulation 2001*, which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation:

- (a) specifies the classes of medical practitioners who are exempt from the requirement under section 19 of the *Health Care Liability Act 2001* to be covered by approved professional indemnity insurance, and
- (b) specifies the classes of health practitioners who are required under section 25 of that Act to be covered by approved professional indemnity insurance and the classes of health practitioners who are exempt from that requirement.

The Regulation does not continue in force provisions of the repealed Regulation that no longer have any practical operation.

This Regulation is made under the *Health Care Liability Act 2001*, including sections 19 (4) (b), 25 and 34 (the general regulation-making power).

Health Care Liability Regulation 2007

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Health Care Liability Regulation 2007

Clause 1

Preliminary

Part 1

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## Health Care Liability Regulation 2007

under the

Health Care Liability Act 2001

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Health Care Liability Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Health Care Liability Regulation 2001*, which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

***approved insurance requirement*** means, in relation to a medical practitioner, the requirement under section 19 of the Act for the medical practitioner to be covered by approved professional indemnity insurance.

***dental auxiliary*** means a dental auxiliary registered under the *Dental Practice Act 2001*.

***dental prosthetist*** has the same meaning as in the *Dental Technicians Registration Act 1975*.

***pharmacist*** means a pharmacist registered under the *Pharmacy Act 1964* or the *Pharmacy Practice Act 2006*.

***the Act*** means the *Health Care Liability Act 2001*.

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

Clause 4 Health Care Liability Regulation 2007

Part 2 Medical practitioners

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## Part 2 Medical practitioners

### 4 Exemption from approved insurance requirement

- (1) In accordance with section 19 (4) (b) of the Act, the following medical practitioners are exempt from the approved insurance requirement:
- (a) a person whose registration as a medical practitioner is, in accordance with section 9 of the *Medical Practice Act 1992*, subject to the condition that the person does not practise medicine,
  - (b) a medical practitioner who practises medicine primarily outside New South Wales and who is covered by professional indemnity insurance of any kind while practising medicine in New South Wales,
  - (c) a medical practitioner whose medical practice is limited to the rendering, on a voluntary basis, of medical assistance in emergency situations or first-aid,
  - (d) a medical practitioner who practises medicine in the course of being:
    - (i) employed by another person, or
    - (ii) engaged by another person under some contractual arrangement,
  - (e) a medical practitioner whose medical practice does not include the provision of health care or medical opinion in respect of the physical or mental health of a person,
  - (f) a medical practitioner who, while practising medicine, is covered by an indemnity arrangement established or entered into by the State or the Commonwealth to cover civil liability,
  - (g) a medical practitioner who, while practising medicine in accordance with a function conferred or imposed by or under any State or Commonwealth Act or regulation, does not, under that Act or regulation, incur any personal liability,
  - (h) a medical practitioner who, without fee or reward, refers a person to another medical practitioner for the purposes of providing health care,
  - (i) a medical practitioner who, without fee or reward, prescribes a therapeutic substance in either of the following circumstances:
    - (i) the prescription involves the renewal of a prescription provided by another medical practitioner (other than a medical practitioner referred to in paragraph (a), (c) or (e)) within the previous period of 6 months and does not relate

Health Care Liability Regulation 2007

Clause 5

Medical practitioners

Part 2

to a drug of addiction within the meaning of the *Poisons and Therapeutic Goods Act 1966*,

- (ii) the prescription is provided to a person who requires temporary relief or first-aid pending attendance on that person by another medical practitioner (other than a medical practitioner referred to in paragraph (a), (c) or (e)).
- (2) An exemption under subclause (1) (b)–(i) applies to a medical practitioner only to the extent to which the medical practitioner practises medicine in the circumstances described in the exemption concerned.
  - (3) Without limiting subclause (2), the exemption under subclause (1) (d) applies only in relation to a medical practitioner:
    - (a) to the extent that the medical practitioner is practising medicine as an employee of, or contractor to, the other person, and
    - (b) to the extent that the medical practitioner is indemnified, under an insurance policy issued to the other person, for civil liability arising out of the provision of, or failure to provide, health care by the medical practitioner, and
    - (c) if the other person is not the medical practitioner’s practice company.
  - (4) The exemption under subclause (1) (i) applies only in relation to a medical practitioner if the medical practitioner has, within the period of 12 months preceding the date on which the prescription is provided by the medical practitioner, undertaken professional education activities relating to the prescribing of therapeutic substances.
  - (5) In this clause, *therapeutic substance* means a substance that is manufactured for therapeutic use within the meaning of the current Poisons Standard (as defined in the *Therapeutic Goods Act 1989* of the Commonwealth).

#### **5 Exemption for limited period after cessation of insurer’s business**

- (1) If a medical practitioner ceases to be covered by approved professional indemnity insurance as a consequence of the cessation of business of the insurer who provided the insurance, the medical practitioner is, in accordance with section 19 (4) (b) of the Act, exempt from the approved insurance requirement but only for a period of no more than 3 months (or such longer period as the Minister may specify by order published in the Gazette) immediately following the date on which the medical practitioner ceased to be so covered.

Clause 5            Health Care Liability Regulation 2007  
Part 2                Medical practitioners

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- (2) The reference in subclause (1) to the cessation of business of an insurer includes a reference to the appointment of a liquidator, administrator or controller (within the meaning of the *Corporations Act 2001* of the Commonwealth) in respect of the insurer's business.

Health Care Liability Regulation 2007

Clause 6

Health practitioners

Part 3

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## Part 3 Health practitioners

### 6 Classes of health practitioner required to be covered by professional indemnity insurance

Section 25 of the Act applies to the following classes of health practitioner:

- (a) chiropractors,
- (b) dental auxiliaries,
- (c) dental prosthetists,
- (d) dentists,
- (e) optometrists,
- (f) osteopaths,
- (g) pharmacists,
- (h) physiotherapists,
- (i) podiatrists,
- (j) psychologists.

### 7 Exemption from insurance requirement

- (1) In accordance with section 25 (5) of the Act, the following health practitioners are exempt from the requirement for professional indemnity insurance:
  - (a) a person whose registration as a health practitioner is subject to the condition that the person does not practise,
  - (b) a health practitioner who practises primarily outside New South Wales and who is covered by professional indemnity insurance of any kind while practising in New South Wales,
  - (c) a health practitioner whose practice is limited to the rendering of assistance, in the practitioner's capacity as a health practitioner, on a voluntary basis in emergency situations,
  - (d) a health practitioner who practises in the course of being:
    - (i) employed by another person, or
    - (ii) engaged by another person under some contractual arrangement,
  - (e) a health practitioner whose practice does not include the provision of health care or of an opinion given in the practitioner's capacity as a health practitioner in respect of the physical or mental health of any person,



Clause 8 Health Care Liability Regulation 2007

Part 3 Health practitioners

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- (f) a health practitioner who, while practising, is covered by an indemnity arrangement established or entered into by the State or the Commonwealth to cover civil liability,
  - (g) a health practitioner who, while practising in accordance with a function conferred or imposed by or under any State or Commonwealth Act or regulation, does not, under that Act or regulation, incur any personal liability.
- (2) An exemption under subclause (1) (b)–(g) applies to a health practitioner only to the extent to which the health practitioner practises in the circumstances described in the exemption concerned.
  - (3) Without limiting subclause (2), the exemption under subclause (1) (d) applies only in relation to a health practitioner:
    - (a) to the extent that the health practitioner is practising as an employee of, or under contract to, the other person, and
    - (b) to the extent that the health practitioner is indemnified, under an insurance policy issued to the other person, for civil liability arising out of the provision of, or failure to provide, health care by the health practitioner, and
    - (c) if the other person is not the health practitioner's practice company.

#### **8 Exemption for limited period after cessation of insurer's business**

- (1) If a health practitioner ceases to be covered by professional indemnity insurance as a consequence of the cessation of business of the insurer who provided the insurance, the health practitioner is, in accordance with section 25 (5) of the Act, exempt from the requirement for professional indemnity insurance but only for a period of no more than 3 months (or such longer period as the Minister may specify by order published in the Gazette) commencing on the date on which the health practitioner ceased to be so covered.
- (2) The reference in subclause (1) to the cessation of business of an insurer includes a reference to the appointment of a liquidator, administrator or controller (within the meaning of the *Corporations Act 2001* of the Commonwealth) in respect of the insurer's business.

#### **9 Interim exemption for dental prosthetists without insurance**

A dental prosthetist who was not covered by professional indemnity insurance of any kind immediately before 27 April 2007 is, in accordance with section 25 (5) of the Act, exempt from the requirement for professional indemnity insurance until 27 October 2007 (or until such later date as the Minister may specify by order published in the Gazette).



New South Wales

# Independent Pricing and Regulatory Tribunal Regulation 2007

under the

Independent Pricing and Regulatory Tribunal Act 1992

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Independent Pricing and Regulatory Tribunal Act 1992*.

MORRIS IEMMA, M.P.,  
Premier

## Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Independent Pricing and Regulatory Tribunal Regulation 2002*. That Regulation will be repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation modifies the application of the *Commercial Arbitration Act 1984* to the arbitration of disputes (relating to a public infrastructure access regime) under Part 4A of the *Independent Pricing and Regulatory Tribunal Act 1992*. The modifications concern the right to legal representation, the private hearing of disputes and the recovery of the fees and expenses of the Independent Pricing and Regulatory Tribunal.

This Regulation also contains a savings provision.

This Regulation is made under the *Independent Pricing and Regulatory Tribunal Act 1992* including sections 24A (Arbitration of access disputes) and 29 (the general regulation-making power).

Independent Pricing and Regulatory Tribunal Regulation 2007

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## Independent Pricing and Regulatory Tribunal Regulation 2007

under the

Independent Pricing and Regulatory Tribunal Act 1992

### 1 Name of Regulation

This Regulation is the *Independent Pricing and Regulatory Tribunal Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Independent Pricing and Regulatory Tribunal Regulation 2002* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

*dispute* means a dispute referred to in section 24A of the Act.

*the Act* means the *Independent Pricing and Regulatory Tribunal Act 1992*.

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

### 4 Object of Regulation

The object of this Regulation is, in accordance with section 24A (2) of the Act, to modify the application of the *Commercial Arbitration Act 1984* to the arbitration of a dispute.

### 5 Legal representation

(1) A party to a dispute may be represented in proceedings before an arbitrator or umpire by an Australian legal practitioner only by leave granted by the arbitrator or umpire.

(2) An arbitrator or umpire may grant leave only if he or she is of the opinion:

(a) that representation of the party by an Australian legal practitioner is likely to shorten the hearing of the dispute or to reduce the costs of the dispute, or

Clause 6 Independent Pricing and Regulatory Tribunal Regulation 2007

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(b) that the party would be unfairly disadvantaged if the party were not represented by an Australian legal practitioner.

(3) This clause has effect instead of section 20 (1) of the *Commercial Arbitration Act 1984*.

**6 Private hearing of disputes**

A dispute is to be heard in private, unless the arbitrator or umpire otherwise directs.

**7 Costs of arbitration**

For the purposes of section 34 (1) and (2) of the *Commercial Arbitration Act 1984*, and without limiting the fees and expenses of the arbitrator or umpire as referred to in section 34, the fees and expenses of the arbitrator or umpire are taken to include:

(a) all costs incurred by the arbitrator or umpire, and

(b) all costs incurred by the Tribunal,

in relation to the arbitration of a dispute, including administrative costs, costs incurred in engaging consultants and expert witnesses, and witnesses' expenses.

**8 Saving**

Any act, matter or thing that had effect under the *Independent Pricing and Regulatory Tribunal Regulation 2002* immediately before the repeal of that Regulation is taken to have effect under this Regulation.



New South Wales

# Law Enforcement (Controlled Operations) Regulation 2007

under the

Law Enforcement (Controlled Operations) Act 1997

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, and on the recommendation of the Inspector of the Police Integrity Commission, has made the following Regulation under the *Law Enforcement (Controlled Operations) Act 1997*.

DAVID CAMPBELL, M.P.,  
Minister for Police

## Explanatory note

The object of this Regulation is to remake, with only minor changes of substance, the *Law Enforcement (Controlled Operations) Regulation 1998*, which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes the following:

- (a) the Commonwealth authorities that are **law enforcement agencies** for the purpose of the *Law Enforcement (Controlled Operations) Act 1997 (the Act)*,
- (b) the circumstances in which an urgent application may be made for an authority to conduct a controlled operation or for a variation of any such authority, the records to be kept in relation to that application and the form in which an authority or variation is to be granted,
- (c) a code of conduct for controlled operations,
- (d) the information to be included in reports on the conduct of controlled operations,
- (e) the information to be included in notices given to the Ombudsman under the Act,
- (f) the positions to which functions under the Act may be delegated.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely, matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Law Enforcement (Controlled Operations) Regulation 2007

Explanatory note

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This Regulation is made under the *Law Enforcement (Controlled Operations) Act 1997*, including certain definitions in section 3 (1) and sections 5 (2B), 8 (6), 10 (1C), 15 (2), 20, 29 (2) (a) and 31 (the general regulation-making power).

## Law Enforcement (Controlled Operations) Regulation 2007

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Clause 1 Law Enforcement (Controlled Operations) Regulation 2007

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## Law Enforcement (Controlled Operations) Regulation 2007

under the

Law Enforcement (Controlled Operations) Act 1997

### 1 Name of Regulation

This Regulation is the *Law Enforcement (Controlled Operations) Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Law Enforcement (Controlled Operations) Regulation 1998* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Interpretation

- (1) In this Regulation:  
*the Act* means the *Law Enforcement (Controlled Operations) Act 1997*.
- (2) In this Regulation, a reference to a Form is a reference to a Form in or to the effect of the relevant Form set out in Schedule 1.
- (3) Notes included in this Regulation do not form part of this Regulation.

### 4 Prescribed law enforcement agencies: section 3

The following agencies are prescribed as law enforcement agencies for the purposes of the Act:

- (a) the Australian Federal Police,
- (b) the Australian Crime Commission,
- (c) the Australian Customs Service.

### 5 Application for authority: section 5

- (1) For the purposes of section 5 (2B) (a) of the Act, an urgent application for an authority to conduct a controlled operation (other than a cross-border controlled operation) may be made if the urgency of the circumstances render it impracticable to make a formal application.

**Note.** Section 20C (2) of the Act sets out the circumstances in which an urgent application for an authority to conduct a cross-border controlled operation may be made.

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- (2) For the purposes of section 5 (2B) (d) of the Act, an applicant making an urgent application is to ensure that written notes are kept of the following information:
- (a) the date and time when the application was made,
  - (b) the identity of the applicant,
  - (c) the information given to the chief executive officer in support of the application.

**6 Grant of authority: section 8**

For the purposes of section 8 (6) (c) of the Act, the form in which a formal authority is to be granted is:

- (a) Form 1, in respect of a controlled operation other than a cross-border controlled operation, or
- (b) Form 2, in respect of a cross-border controlled operation.

**7 Application for variation of authority: section 10**

- (1) For the purposes of section 10 (1C) (a) of the Act, an urgent application for a variation of an authority to conduct a controlled operation (other than a cross-border controlled operation) may be made if the urgency of the circumstances render it impracticable to make a formal application.

**Note.** Section 20G (5) of the Act sets out the circumstances in which an urgent application for a variation of an authority to conduct a cross-border controlled operation may be made.

- (2) For the purposes of section 10 (1C) (d) of the Act, an applicant making an urgent application is to ensure that written notes are kept of the following information:
- (a) the date and time when the application was made,
  - (b) the identity of the applicant,
  - (c) the information given to the chief executive officer in support of the application.

**8 Grant of variation of authority: section 10**

For the purposes of section 10 (9) (c) of the Act, the form in which a formal variation of authority is to be granted is Form 3.

**9 Matters to be included in report: section 15**

A report referred to in section 15 of the Act with respect to a controlled operation must include such matters relevant to the operation as the chief executive officer may require.

Clause 10 Law Enforcement (Controlled Operations) Regulation 2007

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**10 Code of conduct: section 20**

The code of conduct set out in Schedule 2 is prescribed as the code of conduct for authorised operations and it applies to all law enforcement agencies.

**11 Written notice to Ombudsman of granting of authority: section 21**

Without limiting section 21 of the Act, a written notice given to the Ombudsman with respect to the granting of an authority (other than a retrospective authority granted under section 14 of the Act) for a controlled operation must include the following details:

- (a) the date on which the authority was granted,
- (b) the serial number or other identifying code for the authority,
- (c) the nature of the suspected criminal activity or corrupt conduct in respect of which the authority was granted,
- (d) the period for which the authority is to remain in force,
- (e) the nature of the controlled activities authorised by the authority,
- (f) the number of participants in the operation, specifying:
  - (i) how many of them are law enforcement participants, and
  - (ii) how many of them are civilian participants.

**12 Written notice to Ombudsman of variation of authority: section 21**

Without limiting section 21 of the Act, a written notice given to the Ombudsman with respect to the variation of an authority for a controlled operation must include the following details:

- (a) the date on which the variation was granted,
- (b) the serial number or other identifying code for the authority to which the variation relates,
- (c) if the variation extends the period for which the authority has effect, the period for which the authority is to remain in force as a consequence of its extension,
- (d) if the variation authorises an alternative principal law enforcement officer for the operation, the fact that it does so,
- (e) if the variation authorises additional or alternative persons to engage in controlled activities for the purposes of the operation, the number of persons so authorised, specifying:
  - (i) how many of them are law enforcement participants, and
  - (ii) how many of them are civilian participants,

- 
- (f) if the variation authorises participants in the operation to engage in additional or alternative controlled activities, the nature of the controlled activities so authorised.

**13 Written notice to Ombudsman of receipt of report of authorised operation: section 21**

Without limiting section 21 of the Act, a written notice given to the Ombudsman with respect to the receipt of a report on the conduct of an authorised operation must include the following details:

- (a) the date on which the report was received from the principal law enforcement officer for the operation,
- (b) the serial number or other identifying code for the authority for the operation,
- (c) the serial numbers or other identifying codes for any variations that have been granted with respect to the authority for the operation,
- (d) the serial numbers or other identifying codes for any authorities, and any variations of authority, that have been granted for previous controlled operations with respect to the same criminal activity or corrupt conduct,
- (e) the nature of the controlled activities engaged in for the purposes of the operation,
- (f) the number of participants who engaged in controlled activities, specifying:
  - (i) how many of them were law enforcement participants, and
  - (ii) how many of them were civilian participants,
- (g) a statement as to whether the operation was conducted in accordance with the authority for the operation and, in particular, as to:
  - (i) whether any unlawful conduct was engaged in by any participant in the operation, and
  - (ii) if so, whether that unlawful conduct was the subject of an application for retrospective authority under section 14 of the Act, and
  - (iii) if so, whether retrospective authority under section 14 of the Act was granted,
- (h) the date on which the operation was completed.

Clause 14 Law Enforcement (Controlled Operations) Regulation 2007

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#### 14 Delegations: section 29

Each of the following positions is prescribed for the purposes of section 29 of the Act as a position to which functions under the Act (including functions under Part 3A) may be delegated:

- (a) in respect of the Independent Commission Against Corruption—the position of Assistant Commissioner,
- (b) in respect of the Police Integrity Commission—the position of Assistant Commissioner,
- (c) in respect of the New South Wales Crime Commission—the position of Director,
- (d) in respect of the Australian Federal Police—the position of the member of the Australian Federal Police responsible for the day to day operations of the Australian Federal Police in New South Wales,
- (e) in respect of the Australian Crime Commission:
  - (i) the position of Director National Operations,
  - (ii) the position of General Manager National Operations,
  - (iii) the position of an SES employee or acting SES employee (within the meaning of the *Australian Crime Commission Act 2002* of the Commonwealth) of the Commission,
- (f) in respect of the Australian Customs Service—the position of Regional Director (New South Wales).

#### 15 Savings

- (1) Any act, matter or thing that had effect under the repealed Regulation immediately before its repeal is taken to have effect under this Regulation.
- (2) In particular, and without limiting subclause (1), a delegation in force pursuant to clause 13 of the repealed Regulation and section 29 of the Act continues in force until it is revoked.
- (3) In this clause, *the repealed Regulation* means the *Law Enforcement (Controlled Operations) Regulation 1998*.

#### 16 Amendment to Schedule 1 of Act

- (1) For the purposes of section 4 of the Act, Schedule 1 to the Act is amended by inserting at the end of the Schedule:

Chapters 11 and 12 of the *Police Powers and Responsibilities Act 2000* of Queensland
- (2) This clause is repealed on the day following the commencement of subclause (1).

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## Schedule 1 Forms

(Clause 3)

### Form 1 Authority to conduct controlled operation (other than a cross-border controlled operation)

(Clause 6)

(Law Enforcement (Controlled Operations) Act 1997, section 8)

Authority No:

I, [name], \*chief executive officer/delegate of the chief executive officer of [name of authorised agency] (the *Agency*), state the following matters:

- 1 I acknowledge that a code of conduct in relation to the Agency has been prescribed pursuant to section 20 of the Act as set out in Schedule 2 to the *Law Enforcement (Controlled Operations) Regulation 2007*.
- 2 An application (the *Application*) has been made to me by [name of applicant], a law enforcement officer of the Agency, for authority to conduct a controlled operation.
- 3 Having considered the Application, and any additional information furnished under section 5 (3) of the Act, I am satisfied as to the following:
  - (a) there are reasonable grounds for suspecting that criminal activity or corrupt conduct has been, is being or is about to be conducted in relation to matters within the administrative responsibility of the Agency,
  - (b) the nature and extent of the suspected criminal activity or corrupt conduct are such as to justify the conduct of a controlled operation,
  - (c) the nature and extent of the controlled activities are appropriate to the suspected criminal activity or corrupt conduct,
  - (d) the controlled activities will be capable of being accounted for in sufficient detail to enable the reporting requirements of the Act to be fully complied with.
- 4 In considering the matters referred to at item 3 above, I have had regard to the following:
  - (a) the reliability of information as to the nature and extent of the suspected criminal activity or corrupt conduct,
  - (b) the likelihood of success of the controlled operation compared with the likelihood of success of any other law enforcement operation that it would be reasonably practicable to conduct for the same purposes,
  - (c) the duration of the controlled operation.
- 5 I am also satisfied as to the following:
  - (a) no participant will induce or encourage another person to engage in criminal activity or corrupt conduct of a kind that the other person could not reasonably be expected to engage in unless so induced or encouraged,

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## Law Enforcement (Controlled Operations) Regulation 2007

## Schedule 1 Forms

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- (b) no participant will engage in conduct that is likely to seriously endanger the health or safety of that or any other participant, or any other person, or to result in serious loss or damage to property,
  - (c) no participant will engage in conduct that involves the commission of a sexual offence against any person,
  - (d) each participant authorised to participate in the controlled operation has the appropriate skills to participate in the controlled operation,
  - \*(e) it is wholly impracticable for a law enforcement participant to participate in that aspect of the controlled operation in relation to which a civilian participant identified below is authorised to participate,
  - \*(f) it is wholly impracticable for a civilian participant to participate in the aspect of the controlled operation in relation to which a civilian participant identified below is authorised to participate without the civilian participant engaging in the particular controlled activities authorised.

**6** Pursuant to sections 6 and 8 of the Act, I authorise the following:

- (a) [*Name*], a law enforcement officer within the meaning of the Act (the ***principal law enforcement officer***), may conduct the controlled operation in accordance with the plan of the proposed operation accompanying the Application.
- \*(b) A law enforcement officer identified in Column 1 of the Table below (an ***authorised law enforcement participant***) may engage in controlled activities of the nature specified opposite that participant in Column 2 of the Table for the purposes of the controlled operation:

Column 1 Name of participant	Column 2 Nature of controlled activities
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[List by reference to the participant's real name, an assumed name, a code name or a code number. Where 2 or more participants are authorised to engage in the same controlled activities, those participants may be grouped together in Column 1 with respect to those activities.]

In so doing:

- \*(i) the following authorised law enforcement participants may operate under an assumed name:  
[List by reference to the participant's real name, an assumed name, a code name or a code number]
- \*(ii) the following authorised law enforcement participants may not operate under an assumed name:  
[List by reference to the participant's real name, a code name or a code number]

## Law Enforcement (Controlled Operations) Regulation 2007

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- \*(c) A civilian identified in Column 1 of the Table below (an *authorised civilian participant*) may engage in the particular controlled activities specified opposite that participant in Column 2 of the Table for the purposes of the controlled operation:

Column 1 Name of participant	Column 2 Controlled activities
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[List by reference to the participant's real name, an assumed name, a code name or a code number. Where 2 or more participants are authorised to engage in the same controlled activities, those participants may be grouped together in Column 1 with respect to those activities.]

In so doing:

- \*(i) the following authorised civilian participants may operate under an assumed name:  
[List by reference to the participant's real name, an assumed name, a code name or a code number]
- \*(ii) the following authorised civilian participants may not operate under an assumed name:  
[List by reference to the participant's real name, a code name or a code number]

**7** This Authority is in force for a period ending at [time] on [date].  
[The period must not exceed 6 months]

**8** This Authority is subject to the following conditions:  
[Insert conditions, if any. If no conditions, insert 'nil'.]

This Authority is granted at [time] on [date].

Signature:

Name of CEO or delegate:

Title of CEO or delegate:

Name of authorised agency:

\*Strike through if inapplicable.



## Law Enforcement (Controlled Operations) Regulation 2007

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**Form 2 Authority to conduct a cross-border controlled operation**

(Clause 6)

(Law Enforcement (Controlled Operations) Act 1997, section 20E)

Authority No:

I, [name], \*chief executive officer/delegate of the chief executive officer of [name of authorised agency] (the **Agency**), state the following matters:

- 1 I acknowledge that a code of conduct in relation to the Agency has been prescribed pursuant to section 20 of the Act as set out in Schedule 2 to the *Law Enforcement (Controlled Operations) Regulation 2007*.
- 2 An application (the **Application**) has been made to me by [name of applicant], a law enforcement officer of the Agency, for authority to conduct a cross-border controlled operation.
- 3 Having considered the Application, and any additional information furnished under section 5 (3) of the Act, I am satisfied on reasonable grounds as to the following:
  - (a) that a relevant offence has been, is being, or is likely to be, committed,
  - (b) that the controlled operation will be, or is likely to be, conducted in this jurisdiction and in one or more participating jurisdictions,
  - (c) that the nature and extent of the suspected criminal activity are such as to justify the conduct of a controlled operation in this jurisdiction and in one or more participating jurisdictions,
  - (d) that the operation will be conducted in a way that will minimise the risk of more illicit goods being under the control of persons (other than law enforcement officers) at the end of the operation than are reasonably necessary to enable the officers to achieve the purpose of the controlled operation,
  - (e) the nature and extent of the controlled activities are appropriate to the relevant offence,
  - (f) the controlled activities will be capable of being accounted for in sufficient detail to enable the reporting requirements of the Act to be fully complied with.
- 4 In considering the matters referred to at item 3 above, I have had regard to the following:
  - (a) the reliability of information as to the nature and extent of the relevant offence,
  - (b) the likelihood of success of the cross-border controlled operation compared with the likelihood of success of any other law enforcement operation that it would be reasonably practicable to conduct for the same purposes,
  - (c) the duration of the controlled operation.

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- 5** I am also satisfied as to the following:
- (a) no participant will induce or encourage another person to engage in criminal activity or corrupt conduct of a kind that the other person could not reasonably be expected to engage in unless so induced or encouraged,
  - (b) no participant will engage in conduct that is likely to seriously endanger the health or safety of that or any other participant, or any other person, or to result in serious loss or damage to property,
  - (c) no participant will engage in conduct that involves the commission of a sexual offence against any person,
  - (d) each participant authorised to participate in the controlled operation has the appropriate skills to participate in the controlled operation,
  - \*(e) it is wholly impracticable for a law enforcement participant to participate in that aspect of the controlled operation in relation to which a civilian participant identified below is authorised to participate,
  - \*(f) it is wholly impracticable for a civilian participant to participate in the aspect of the controlled operation in relation to which a civilian participant identified below is authorised to participate without the civilian participant engaging in the particular controlled activities authorised.
- 6** Pursuant to sections 6 and 8 of the Act, I authorise the following:
- (a) [Name], a law enforcement officer within the meaning of the Act (the **principal law enforcement officer**), may conduct the cross-border controlled operation in accordance with the plan of the proposed operation accompanying the Application in participating jurisdictions namely:  
[List the participating jurisdictions in which the controlled conduct is, or is likely, to be engaged in]
  - \*(b) A law enforcement officer identified in Column 1 of the Table below (an **authorised law enforcement participant**) may engage in controlled activities of the nature specified opposite that participant in Column 2 of the Table for the purposes of the controlled operation:

Column 1 Name of participant	Column 2 Nature of controlled activities
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[List by reference to the participant's real name, an assumed name, a code name or a code number. Where 2 or more participants are authorised to engage in the same controlled activities, those participants may be grouped together in Column 1 with respect to those activities.]

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In so doing:

- \* (i) the following authorised law enforcement participants may operate under an assumed name:  
[List by reference to the participant's real name, an assumed name, a code name or a code number]
- \* (ii) the following authorised law enforcement participants may not operate under an assumed name:  
[List by reference to the participant's real name, a code name or a code number]
- \* (c) A civilian identified in Column 1 of the Table below (an **authorised civilian participant**) may engage in the particular controlled activities specified opposite that participant in Column 2 of the Table for the purposes of the controlled operation:

Column 1 Name of participant	Column 2 Controlled activities
---------------------------------	-----------------------------------

[List by reference to the participant's real name, an assumed name, a code name or a code number. Where 2 or more participants are authorised to engage in the same controlled activities, those participants may be grouped together in Column 1 with respect to those activities.]

In so doing:

- \* (i) the following authorised civilian participants may operate under an assumed name:  
[List by reference to the participant's real name, an assumed name, a code name or a code number]
- \* (ii) the following authorised civilian participants may not operate under an assumed name:  
[List by reference to the participant's real name, a code name or a code number]

**7** The identity of each suspect (to the extent known) is as follows:

[Insert the identity of each suspect]

## Law Enforcement (Controlled Operations) Regulation 2007

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- 8** The nature and quantity of any illicit goods (to the extent known) that will be involved in the operation is:

*[Insert the nature and quantity of any illicit goods including a description of the goods]*

- 9** The route through which the illicit goods will pass in the course of the operation is:

*[Describe the route]*

- 10** This Authority is in force for a period ending at *[time]* on *[date]*.

- 11** This Authority is subject to the following conditions:

*[Insert conditions, if any. If no conditions, insert 'nil'.]*

This Authority is granted at *[time]* on *[date]*.

Signature:

Name of CEO or delegate:

Title of CEO or delegate:

Name of authorised agency:

\*Strike through if inapplicable.

### **Form 3 Variation of authority to conduct controlled operation including a cross-border controlled operation**

(Clause 8)

(Law Enforcement (Controlled Operations) Act 1997, section 10)

I, *[name]*, \*chief executive officer/delegate of the chief executive officer of *[name of authorised agency]* (the **Agency**), state the following matters:

- 1** An application (the **Application**) has been made to me by *[name]*, \*the principal law enforcement officer for the controlled operation/a law enforcement officer on behalf of the principal law enforcement officer, to vary the Authority to Conduct a Controlled Operation (the **Authority**), Authority No: \_\_\_\_\_ granted by *[name of issuing officer]* on *[date]*.
- 2** Having considered the Application, and any additional information furnished under section 10 (2) of the Act, I am satisfied as to the following:
- (a) the success of the controlled operation, or the protection of the health and safety of a participant in the controlled operation or any other person, or the protection of property from loss or damage can reasonably be expected to require the variation sought by the Application,
  - (b) no participant in the controlled operation will induce or encourage another person to engage in criminal activity or corrupt conduct of a kind that the other person could not reasonably be expected to engage in unless so induced or encouraged,

## Law Enforcement (Controlled Operations) Regulation 2007

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- (c) no participant will engage in conduct that is likely to seriously endanger the health or safety of that or any other participant, or any other person, or to result in serious loss or damage to property,
  - (d) no participant will engage in conduct that involves the commission of a sexual offence against any person,
  - (e) each participant authorised to participate in the controlled operation has the appropriate skills to participate in the controlled operation,
  - \*(f) it is wholly impracticable for a law enforcement participant to participate in that aspect of the controlled operation in relation to which the civilian participants identified below are authorised to participate,
  - \*(g) it is wholly impracticable for a civilian participant identified below to participate in the aspect of the controlled operation in relation to which the civilian participants identified below are authorised to participate without the civilian participant engaging in the particular additional or alternative controlled activities authorised.

**3** Pursuant to section 10 of the Act, I authorise the variation of authority:

- \*(a) to extend the period for which the Authority has effect until [date].
- \*(b) to authorise [name] as the alternative principal law enforcement officer for the controlled operation.
- \*(c) to authorise the additional persons identified at item 4 below to engage in controlled activities for the purposes of the controlled operation.
- \*(d) to authorise the additional persons identified at item 5 below to engage in controlled activities for the purposes of the controlled operation.
- \*(e) to authorise the alternative persons identified at item 6 below to engage in controlled activities for the purposes of the controlled operation.
- \*(f) to authorise the alternative persons identified at item 7 below to engage in controlled activities for the purposes of the controlled operation.
- \*(g) to authorise participants in the operation to engage in additional controlled activities as specified at item 8 below.
- \*(h) to authorise participants in the operation to engage in additional controlled activities as specified at item 9 below.
- \*(i) to authorise participants in the operation to engage in alternative controlled activities as specified at item 10 below.
- \*(j) to authorise participants in the operation to engage in alternative controlled activities as specified at item 11 below.
- \*(k) to identify additional suspects as specified at item 12 below.

**\*Additional law enforcement participants**

- 4** A law enforcement officer identified in Column 1 of the Table below (an **additional law enforcement participant**) may engage in controlled activities as authorised by Authority No: [include any relevant Variation of Authority No] with respect to law

## Law Enforcement (Controlled Operations) Regulation 2007

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enforcement participants and of the nature specified opposite that participant in Column 2 of the Table, for the purposes of the controlled operation:

Column 1 Name of additional participant	Column 2 Nature of controlled activities
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*[List by reference to the participant's real name, an assumed name, a code name or a code number. Where 2 or more additional participants are authorised to engage in the same controlled activities, the names of those participants may be grouped together with respect to those activities.]*

In so doing:

- \*(a) the following additional law enforcement participants may operate under an assumed name:  
*[List by reference to the participant's real name, an assumed name, a code name or a code number]*
- \*(b) the following additional law enforcement participants may not operate under an assumed name:  
*[List by reference to the participant's real name, a code name or a code number]*

**\*Additional civilian participants**

- 5** A civilian identified in Column 1 of the Table below (an **additional civilian participant**) may engage in particular controlled activities, as authorised by Authority No: *[include any relevant Variation of Authority No]* with respect to civilian participants and as specified opposite that participant in Column 2 of the Table, for the purposes of the controlled operation:

Column 1 Name of additional participant	Column 2 Nature of controlled activities
--	---

*[List by reference to the participant's real name, an assumed name, a code name or a code number. Where 2 or more additional participants are authorised to engage in the same controlled activities, the names of those participants may be grouped together with respect to those activities.]*

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In so doing:

- \* (a) the following additional civilian participants may operate under an assumed name:  
[List by reference to the participant's real name, an assumed name, a code name or a code number]
- \* (b) the following additional civilian participants may not operate under an assumed name:  
[List by reference to the participant's real name, a code name or a code number]

**\*Alternative law enforcement participants**

- 6** A law enforcement participant identified in Column 1 of the Table below is to be replaced by a law enforcement officer (an *alternative law enforcement participant*) identified opposite that participant in Column 2 of the Table for the purposes of the controlled operation.

Column 1 Name of replaced participant	Column 2 Name of alternative participant
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[List by reference to the participant's real name, an assumed name, a code name or a code number]

In so doing:

- \* (a) the following alternative law enforcement participants may operate under an assumed name:  
[List by reference to the participant's real name, an assumed name, a code name or a code number]
- \* (b) the following alternative law enforcement participants may not operate under an assumed name:  
[List by reference to the participant's real name, a code name or a code number]
- \* (c) an alternative law enforcement participant identified in Column 2 of the Table may engage in the controlled activities that a law enforcement participant identified opposite that alternative law enforcement participant in Column 1 of the Table was authorised to engage in by Authority No:            for the purposes of the controlled operation.

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**\*Alternative civilian participants**

- 7** A civilian participant identified in Column 1 of the Table below is to be replaced by a civilian (an *alternative civilian participant*) identified opposite that civilian participant in Column 2 of the Table for the purposes of the controlled operation.

Column 1 Name of replaced participant	Column 2 Name of alternative participant
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*[List by reference to the participant's real name, an assumed name, a code name or a code number]*

In so doing:

- \* (a) the following alternative civilian participants may operate under an assumed name:  
*[List by reference to the participant's real name, an assumed name, a code name or a code number]*
- \* (b) the following alternative civilian participants may not operate under an assumed name:  
*[List by reference to the participant's real name, a code name or a code number]*
- \* (c) an alternative civilian participant identified in Column 2 of the Table may engage in the controlled activities that a civilian participant identified opposite that alternative civilian participant in Column 1 of the Table was authorised to engage in by Authority No:            for the purposes of the controlled operation.

**\*Additional controlled activities—law enforcement participants**

- 8** A law enforcement participant authorised to engage in controlled activities by \*this Variation of Authority/Authority No:            for the purposes of the controlled operation and identified in Column 1 of the Table below may engage in the additional controlled activities of the nature specified opposite that participant in Column 2 of the Table:



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<b>Column 1</b>	<b>Column 2</b>
<b>Name of participant</b>	<b>Nature of additional controlled activities</b>

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**\*Additional controlled activities—civilian participants**

- 9** A civilian participant authorised to engage in controlled activities by \*this Variation of Authority/Authority No: \_\_\_\_\_ for the purposes of the controlled operation and identified in Column 1 of the Table below may engage in the additional controlled activities specified opposite that participant in Column 2 of the Table:

<b>Column 1</b>	<b>Column 2</b>
<b>Name of participant</b>	<b>Additional controlled activities</b>

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**\*Alternative controlled activities—law enforcement participants**

- 10** A law enforcement participant authorised to engage in controlled activities by \*this Variation of Authority/Authority No: \_\_\_\_\_ for the purposes of the controlled operation and identified in Column 1 of the Table below may engage in the alternative controlled activities of the nature specified opposite that participant in Column 2 of the Table:

<b>Column 1</b>	<b>Column 2</b>
<b>Name of participant</b>	<b>Nature of alternative controlled activities</b>

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**\*Alternative controlled activities—civilian enforcement participants**

- 11** A civilian participant authorised to engage in controlled activities by \*this Variation of Authority/Authority No: \_\_\_\_\_ for the purposes of the controlled operation and identified in Column 1 of the Table below may engage in the alternative controlled activities specified opposite that participant in Column 2 of the Table:

<b>Column 1</b>	<b>Column 2</b>
<b>Name of participant</b>	<b>Alternative controlled activities</b>

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**\*Additional suspects (cross-border controlled operations only)**

- 12** This Variation of Authority/Authority No: \_\_\_\_\_ adds the following suspects (to the extent known):  
*[Insert the identity of any additional suspects]*

**Duration of Variation**

- \*13** This Variation of Authority is in force from [*time*] on [*date*] to [*date*].  
*[For variations to extend the period of an Authority]*
- \*14** This Variation of Authority is in force from [*time*] on [*date*].  
*[For all other variations of an Authority]*

**Conditions**

- 15** This Variation of Authority is subject to the following conditions:  
*[Insert conditions, if any. If no conditions, insert 'nil'.]*

This Variation of Authority is granted at [*time*] on [*date*].

Signature:

Name of CEO or delegate:

Title of CEO or delegate:

Name of authorised agency:

\*Strike through if inapplicable.

Law Enforcement (Controlled Operations) Regulation 2007

Schedule 2 Code of conduct

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## Schedule 2 Code of conduct

(Clause 10)

### 1 Applicants for authorities to act in good faith

- (1) In making an application for an authority, or for a variation of an authority, the applicant must at all times act in good faith.
- (2) In particular, the applicant must ensure that the application:
  - (a) discloses all information of which the applicant is aware as to the circumstances giving rise to the application, especially those that could affect the way in which the application will be determined, and
  - (b) does not contain anything that is incorrect or misleading in a material particular.
- (3) If the applicant subsequently becomes aware of information that, had it been known to the chief executive officer when the application was determined, could have affected the way in which the application would have been determined, the applicant must ensure that the information is given to the chief executive officer as soon as practicable.

### 2 Disclosure of changed circumstances

If the principal law enforcement officer for an authorised operation becomes aware of circumstances that are likely to require a variation of the authority for the operation, the officer must ensure that:

- (a) information as to those circumstances is given to the chief executive officer as soon as practicable, and
- (b) a written application for such a variation is made to the chief executive officer before it becomes impracticable to do so.

### 3 Participants to be properly briefed

Before conducting an authorised operation, the principal law enforcement officer for the operation:

- (a) must ensure that each law enforcement participant and each civilian participant:
  - (i) has a thorough understanding of the nature and extent of any controlled activities in which the participant may be directed to engage in for the purposes of the operation, and
  - (ii) is made aware of the terms of the authority to the extent to which it authorises the participant to engage in those activities, and

## Law Enforcement (Controlled Operations) Regulation 2007

Code of conduct

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- 
- (b) must ensure that each civilian participant undertakes not to engage in any controlled activities other than those referred to in paragraph (a), and
  - (c) must make a written record of each undertaking given by a civilian participant as referred to in paragraph (b).

**4 Obligations of law enforcement participants with respect to their own actions**

At all times during the conduct of an authorised operation, each law enforcement participant:

- (a) must act in good faith, and
- (b) must comply with any lawful directions given to the participant by the principal law enforcement officer for the operation.

**5 Obligations of law enforcement participants with respect to the actions of others**

Each law enforcement participant in an authorised operation must take all reasonable steps to ensure that the conduct of the operation does not involve any participant in the operation:

- (a) inducing or encouraging another person to engage in criminal activity or corrupt conduct of a kind that the other person could not reasonably be expected to engage in unless so induced or encouraged, or
- (b) engaging in conduct that is likely to seriously endanger the health or safety of that or any other participant, or any other person, or to result in serious loss or damage to property, or
- (c) engaging in conduct that involves the commission of a sexual offence against any person, or
- (d) engaging in any activity that, not being a controlled activity, is unlawful.

**6 Reports to be made in good faith**

- (1) In preparing a report on the conduct of an authorised operation, the reporting officer must at all times act in good faith.
- (2) In particular, the reporting officer must ensure that the report:
  - (a) discloses all information of which the officer is aware as to matters required to be included in the report, and
  - (b) does not contain anything that is incorrect or misleading in a material particular.

## Law Enforcement (Controlled Operations) Regulation 2007

Schedule 2 Code of conduct

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- (3) If the reporting officer subsequently becomes aware of:
- (a) information that, had it been known to the officer when the report was prepared, should have been included in the report, or
  - (b) information that indicates that anything contained in the report is incorrect or misleading in a material particular,
- the officer must ensure that the information is given to the chief executive officer as soon as practicable.

**7 Breaches of code to be reported**

- (1) If a law enforcement participant in an authorised operation becomes aware that a breach of this code has occurred in relation to the operation, the participant must ensure that notice of the breach is given to the chief executive officer as soon as practicable.
- (2) It is sufficient compliance with this clause if notice of the breach is reported in accordance with the internal reporting procedures applicable to the law enforcement agency to which the law enforcement participant belongs.

**8 Relationship to other codes of conduct**

In its application to a law enforcement agency, the provisions of this code are in addition to, and do not derogate from, the provisions of any other code of conduct that applies to that agency.



New South Wales

# Lotteries and Art Unions Regulation 2007

under the

Lotteries and Art Unions Act 1901

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Lotteries and Art Unions Act 1901*.

GRAHAM WEST, M.P.,  
Minister for Gaming and Racing

## Explanatory note

The object of this Regulation is to remake, without major changes, the *Lotteries and Art Unions Regulation 2002*, which is to be repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters under the *Lotteries and Art Unions Act 1901*:

- (a) lotteries and games of chance generally,
- (b) lotteries conducted by art unions,
- (c) draw lotteries conducted by charitable and non-profit organisations,
- (d) no-draw lotteries,
- (e) mini-numbers lotteries,
- (f) progressive lotteries,
- (g) not-for-profit promotional raffles conducted by registered clubs,
- (h) club bingo in registered clubs,
- (i) other lotteries and games of chance,
- (j) the keeping of records in relation to lotteries and games of chance.

This Regulation is made under the *Lotteries and Art Unions Act 1901*, in particular section 23 (the general regulation-making power) and the sections specifically referred to in the Regulation.

Lotteries and Art Unions Regulation 2007

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Lotteries and Art Unions Regulation 2007

Clause 1

Preliminary

Part 1

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## Lotteries and Art Unions Regulation 2007

under the

Lotteries and Art Unions Act 1901

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Lotteries and Art Unions Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Lotteries and Art Unions Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**benefiting organisation**, in relation to a lottery or game of chance, means the organisation for whose benefit the lottery or game of chance is conducted.

**draw lottery** means a lottery (other than a mini-numbers lottery) in which:

- (a) numbered tickets are sold to entrants in the lottery, and
- (b) a draw is held in which one or more numbers (corresponding to the numbers on the tickets) are selected at random, and
- (c) prizes are distributed to the persons holding the tickets corresponding to the numbers selected.

**draw lottery ticket** means a lottery ticket used or prepared for use in a draw lottery.

**mini-numbers lottery** means a lottery (such as those commonly known as mini-lotto, lion-ball, kick-a-ball, make-a-mark and pick-the-pack) in which participants choose or attempt to forecast, from designated numbers, fewer numbers to be drawn on a random basis.

**no-draw lottery** means a lottery in which:

- (a) tickets, or rights to participate in the lottery, are sold to entrants in the lottery, and

Clause 3 Lotteries and Art Unions Regulation 2007

Part 1 Preliminary

- (b) the tickets, or the cards or boards conferring the rights to participate, each contain a hidden symbol (or a set of hidden symbols) that can be exposed by removing a covering of paper or other opaque material, and
- (c) the hidden symbols (or sets of hidden symbols) include prizewinning symbols (or sets of prizewinning symbols) that are randomly distributed among the tickets or cards, and
- (d) a participant, on exposing a hidden symbol (or set of hidden symbols) that accords with another symbol (or set of symbols) specified in the rules of the lottery (whether or not displayed on the ticket or card), has a right under those rules to receive a specified prize.

***no-draw lottery card*** means a card or board, produced for a no-draw lottery, that contains hidden symbols (or sets of hidden symbols) that may, when exposed, confer the right to a prize on participants in the lottery.

***no-draw lottery ticket*** means a ticket, produced for a no-draw lottery, that contains hidden symbols (or sets of hidden symbols) that may confer on participants in the lottery the right to a prize when the symbol (or symbols) are exposed.

***official approval*** for the purposes of any provision of this Regulation in which the expression occurs, means approval in writing given by the Minister or by an officer of the Public Service authorised by the Minister to give the approval.

***organiser*** means:

- (a) in relation to a lottery (other than a lottery conducted by an art union) or game of chance, any person concerned in the management of the lottery or game of chance, and
- (b) in relation to a lottery conducted by an art union, any person identified on the application form for the permit for the art union as the promoter of the art union or as a manager of the art union.

***progressive lottery*** has the same meaning as it has in section 4F of the Act.

***symbol*** includes amount, word or picture.

***the Act*** means the *Lotteries and Art Unions Act 1901*.

- (2) In this clause, a reference to a number is a reference to:
  - (a) one or more numbers or symbols (or numbers and symbols), or
  - (b) one or more groups of numbers or symbols (or numbers and symbols), or
  - (c) one or more distributions of numbers or symbols (or numbers and symbols).

Lotteries and Art Unions Regulation 2007

Clause 4

Preliminary

Part 1

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

**4 Savings provision**

Any act, matter or thing that, immediately before the repeal of the *Lotteries and Art Unions Regulation 2002*, had effect under that Regulation is taken to have effect under this Regulation.



Clause 5 Lotteries and Art Unions Regulation 2007

Part 2 Lotteries and games of chance generally

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## **Part 2 Lotteries and games of chance generally**

### **Division 1 Preliminary**

#### **5 Application of Part**

This Part applies to lotteries and games of chance conducted under the following provisions of the Act:

- (a) section 4 (Certain charitable and non-profit organisations authorised to conduct lotteries),
- (b) section 4A (Certain organisations authorised to conduct games of chance),
- (c) section 4B (Lotteries and games of chance for the promotion of trade),
- (d) section 4C (Games of chance in registered clubs),
- (e) section 4D (Sweepstakes in relation to Melbourne Cup and other events),
- (f) section 4E (Conduct of certain games of housie authorised),
- (g) section 4F (Conduct of progressive lotteries authorised),
- (h) section 4G (Conduct of gratuitous (free entry) lotteries authorised),
- (i) section 5 (Art unions),

except as otherwise provided by this Part.

### **Division 2 Lottery tickets and cards**

#### **6 Division not to apply to certain lotteries and games of chance**

This Division does not apply to:

- (a) a mini-numbers lottery conducted under section 4 of the Act, or
- (b) a lottery or game of chance conducted under section 4A, 4B, 4C, 4E or 4G of the Act.

#### **7 Entry to lottery**

- (1) Entry in a lottery is to be by the purchase of a lottery ticket.
- (2) A person must not issue a lottery ticket to any other person otherwise than:

Lotteries and Art Unions Regulation 2007

Clause 8

Lotteries and games of chance generally

Part 2

- 
- (a) for money to the amount of the value of the ticket, or
  - (b) for other consideration equivalent to the value of the ticket, being a value that is displayed on the face of the ticket or is otherwise specified.

Maximum penalty: 20 penalty units.

- (3) However, lottery tickets may be sold at a discount if the fact that they may be so sold is disclosed in all information and publicity relating to the lottery concerned.
- (4) In the case of a no-draw lottery conducted by means of no-draw lottery cards:
  - (a) a reference in this clause to a lottery ticket is a reference to a right to participate in the lottery, and
  - (b) a reference in this clause to the face of the ticket is a reference to the face of the relevant no-draw lottery card.
- (5) In the case of a progressive lottery, a reference in this clause to a lottery ticket includes a reference to a right to participate in the lottery.

#### **8 Distribution of lottery tickets**

- (1) A person must not send a lottery ticket or a no-draw lottery card to any other person (whether for purchase by that other person or for sale by that other person as agent for the organisers of the lottery) except with the prior consent of that other person.  
Maximum penalty: 20 penalty units.
- (2) In the case of a progressive lottery, a reference in this clause to a lottery ticket includes a reference to a right to participate in the lottery.

#### **9 Retention of unsold tickets and no-draw lottery cards**

- (1) The organisers of a lottery or game of chance must retain:
  - (a) all unsold lottery tickets and other tickets, and
  - (b) all no-draw lottery cards (whether the participatory rights in those cards are sold or unsold),for at least 3 years (or such shorter period as is given official approval either generally or in a particular case) after the date of the draw or the completion of the game.  
Maximum penalty: 20 penalty units.

Clause 10 Lotteries and Art Unions Regulation 2007

Part 2 Lotteries and games of chance generally

- (2) This clause does not apply:
- (a) to a draw lottery conducted under section 4 of the Act, or
  - (b) to a game of chance conducted under section 4D of the Act, if the total value of the tickets sold in the draw lottery or game is less than \$5,000.
- (3) This clause does not apply to a progressive lottery conducted under section 4F of the Act.

### **Division 3 Prizes**

#### **10 Liquor prizes**

For the purposes of section 18B (3) of the Act, the liquor component of all the prizes in any lottery or game of chance must not exceed 20 litres.

#### **11 Prizes to be preserved**

The organisers of a lottery or game of chance must carefully preserve all prizes in the lottery or game of chance until the prizewinners have taken possession of them or until they have been sold under section 15 of the Act.

Maximum penalty: 20 penalty units.

#### **12 Prizes to be received by prizewinners**

- (1) Each prizewinner in a lottery or game of chance is to receive only the prize which the prizewinner has won.
- (2) Despite subclause (1), if a prize is not a prize of money, a prizewinner may consent to receiving an alternative prize, but only if it is of a similar value to the prize that was actually won.
- (3) This clause does not apply to a lottery or game of chance conducted under section 4B of the Act.

#### **13 Payment of prize money by cheque**

- (1) If in a lottery or game of chance the prize money payable to a person exceeds \$2,000, the organisers of the lottery or game must pay so much of the prize money as exceeds \$2,000:
  - (a) by means of a crossed cheque payable to the person (unless paragraph (b) applies), or
  - (b) if the person so requests, by means of electronic funds transfer to an account nominated by the person.

Maximum penalty: 20 penalty units.

Lotteries and Art Unions Regulation 2007

Clause 14

Lotteries and games of chance generally

Part 2

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(2) In this clause:

*crossed cheque* means a cheque crossed as referred to in section 53 of the *Cheques Act 1986* of the Commonwealth.

#### **Division 4 Commission and other expenses**

##### **14 Division not to apply to certain lotteries and games of chance**

This Division does not apply to:

- (a) a mini-numbers lottery conducted under section 4 of the Act, or
- (b) a lottery or game of chance conducted under section 4B, 4E or 4G of the Act.

##### **15 Commission**

(1) A person must not allow another person any remuneration from the funds received by an organisation conducting a lottery or game of chance, other than commission or remuneration for services rendered in connection with the lottery or game of chance under a written agreement between that other person and the organisation concerned.

Maximum penalty: 20 penalty units.

(2) An agreement referred to in subclause (1) must specify:

- (a) the service to be rendered, and
- (b) the remuneration to be provided for that service, and
- (c) the period for which the agreement is to be in force.

(3) A person must not pay commission in respect of:

- (a) a lottery (other than a no-draw lottery) in which the total value of the prizes is \$5,000 or less, or
- (b) the sale of a lottery ticket in a lottery conducted by an art union, unless the name and address of the purchaser of the ticket (or the name and address of the purchaser's nominee) have been recorded in accordance with clause 29.

Maximum penalty: 20 penalty units.

(4) This clause does not apply to a progressive lottery conducted under section 4F of the Act.

##### **16 Deduction of expenses of conduct of lottery or game of chance**

(1) The following amounts may be deducted from money received in connection with a lottery or game of chance:

- (a) the cost of producing or obtaining the tickets, or the no-draw lottery cards, for the lottery, or the tickets for the game of chance,

Clause 17 Lotteries and Art Unions Regulation 2007

Part 2 Lotteries and games of chance generally

- 
- (b) the reasonable cost of advertising and promoting the lottery or game of chance,
  - (c) the reasonable cost of hiring or operating any device, or renting any premises, for use in the conduct of the lottery or game of chance,
  - (d) the cost of any prizes to be awarded, and the amount of any prize money to be paid, to winners in the lottery or game of chance,
  - (e) the amount of any reasonable salaries, wages and commission paid to persons assisting in the conduct of the lottery or game of chance,
  - (f) the cost of auditing the accounts relating to the lottery or game of chance,
  - (g) any other amount that, under a permit under the Act, an organisation is permitted to deduct from money received in connection with the lottery or game of chance to which the permit relates.
- (2) The organisers must not deduct any other amounts.  
Maximum penalty: 20 penalty units.
- (3) In the case of a progressive lottery, a reference in this clause to a lottery ticket includes a reference to a right to participate in the lottery.

## **Division 5 Restrictions on advertising**

### **17 Restrictions on advertising lottery activities**

- (1) A person must not publish, or cause to be published, any lottery advertising that:
- (a) encourages a breach of the law, or
  - (b) depicts children participating in a lottery activity, or
  - (c) is false, misleading or deceptive, or
  - (d) suggests that winning will be a definite outcome of entering or participating in the lottery activity, or
  - (e) suggests that entering or participating in the lottery activity will definitely improve a person's financial prospects, or
  - (f) is not conducted in accordance with decency, dignity and good taste.

Maximum penalty: 20 penalty units.

Lotteries and Art Unions Regulation 2007

Clause 18

Lotteries and games of chance generally

Part 2

- (2) A person must not enter into or extend the duration of a contract or arrangement for the publication of any lottery advertising that does any of the things referred to in subclause (1).

Maximum penalty: 20 penalty units.

- (3) In this clause:

**lottery advertising** means advertising that is directly related to the conduct of a lottery activity.

**publish** includes disseminate in any way, whether by oral, visual, written or other means (for example, dissemination by means of cinema, video, radio, television or the internet).

#### **18 Unauthorised advertisements or promotions**

- (1) A person must not advertise or promote any lottery or game of chance:

- (a) on the basis that it is similar to a lottery known as lotto or keno, or to any other lottery or game conducted under the authority of a licence under the *Public Lotteries Act 1996*, or
- (b) in any way that suggests that the lottery or game of chance is approved or authorised by the Government or by any Government agency.

Maximum penalty: 20 penalty units.

- (2) This clause does not operate so as to prevent the publication of:

- (a) the permit number of an art union conducting a lottery, or
- (b) the permit number relating to a lottery or game of chance conducted by any other organisation.

### **Division 6 Miscellaneous**

#### **19 Money to be banked**

As soon as practicable after receiving money in relation to a lottery, the organisers of the lottery must pay the money into an account at an authorised deposit-taking institution, being an account belonging to the benefiting organisation.

Maximum penalty: 20 penalty units.

#### **20 Duties of organisers of lotteries and games of chance**

Any duty imposed by this Regulation on the organisers of a lottery or game of chance:

- (a) is imposed jointly and severally on each of them, and
- (b) may be performed by any one of them.

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Part 2	Lotteries and games of chance generally

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**21 Police authorised to act as inspectors**

For the purposes of section 21A (3) of the Act, every police officer of or above the rank of sergeant is authorised to exercise the functions of an authorised inspector under Part 5 of the Act.

**22 Remedial orders**

For the purposes of section 22D (1) of the Act:

- (a) an offence under clause 17 (1) is a prescribed offence if it relates to the publication of any lottery advertising (within the meaning of that clause) that is false, misleading or deceptive, and
- (b) the prescribed action that a court may order to be taken by a person found guilty of such an offence is the publication, in accordance with such directions as the court thinks fit as to the time, form, extent and manner of the publication, of an advertisement that corrects the information contained in the lottery advertising that was the subject of the offence.

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Lotteries conducted by art unions

Part 3

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## **Part 3 Lotteries conducted by art unions**

### **Division 1 Preliminary**

#### **23 Application**

This Part applies to a draw lottery conducted by an art union for the purpose of allotting or distributing among the members of the art union the prizes purchased by the art union.

#### **24 Definitions**

In this Part:

*lottery* means a lottery to which this Part applies.

*lottery ticket* means a ticket used or prepared for use in a lottery.

*promoter* means the person identified, on the application form for a permit for an art union, as the promoter of the art union.

### **Division 2 Permits and tickets**

#### **25 Application for permit**

An application for a permit under section 6 of the Act for the formation of an art union is to give the names and addresses of the promoter and manager of the proposed art union.

#### **26 Lottery tickets not to be printed before permit obtained**

The organisers of a lottery must not authorise the printing of lottery tickets for the lottery until a permit under section 6 of the Act for the formation of the art union proposing to conduct the lottery has been issued.

Maximum penalty: 20 penalty units.

#### **27 Form of lottery tickets**

- (1) Lottery tickets must be numbered consecutively.
- (2) Each lottery ticket, other than a computer-generated ticket, must consist of a purchaser's portion, a ticket-butt and a drawing-docket, each of which complies with the requirements of clause 28.
- (3) Each computer-generated lottery ticket must include a purchaser's portion (complying with the requirements of clause 28) and may include a ticket-butt or a drawing-docket or both.



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Part 3 Lotteries conducted by art unions

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- (4) If a computer-generated lottery ticket (whether partly pre-printed or not) does not contain a ticket-butt or a drawing-docket:
- (a) the computer records for the ticket must contain the information required by this Division to be shown on a ticket-butt, and
  - (b) any document generated for inclusion in the draw must contain the information required by this Division to be shown on a drawing-docket,
- as appropriate.
- (5) The organisers of the lottery must ensure compliance with the requirements of this clause.
- Maximum penalty: 20 penalty units.

#### **28 Information to be available to purchasers**

- (1) The purchaser's portion of a lottery ticket must contain the following information:
- (a) the name of the art union conducting the lottery,
  - (b) the name of the benefiting organisation,
  - (c) the price of each lottery ticket,
  - (d) details of the prizes and their value,
  - (e) the place, date and time of the draw,
  - (f) details of how the results of the draw will be publicised,
  - (g) the number of tickets in the lottery,
  - (h) the name and address of the promoter of the art union,
  - (i) the number of the permit issued in respect of the art union,
  - (j) the serial number of the lottery ticket.
- (2) The ticket-butt must show the name of the art union and the serial number of the lottery ticket and must contain provision for the name and address of the purchaser.
- (3) The drawing-docket must show the serial number of the lottery ticket, and must not contain any provision for the name or address of the purchaser.

#### **29 Particulars to be recorded**

At the time a person sells a lottery ticket, the person:

- (a) must cause the name and address of the purchaser or purchaser's nominee to be written legibly on the ticket-butt, or

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- (b) in the case of a computer-generated ticket, must cause the name and address of the purchaser or purchaser's nominee to be entered into the computer records in relation to the ticket.

Maximum penalty: 20 penalty units.

### **Division 3 Draw for prizes**

#### **30 Draw for prizes to take place as advertised**

- (1) The organisers of a lottery must use their best endeavours to ensure that the draw for the prizes in the lottery takes place:
- (a) in accordance with the information specified on the tickets for the lottery, or
  - (b) if a change to the place, date or time of the draw is given official approval under this clause—in accordance with that approval.

Maximum penalty: 20 penalty units.

- (2) A person must not change the place, date or time of the draw for the prizes in a lottery, as specified on the tickets for the lottery, unless the change is given official approval.

Maximum penalty: 20 penalty units.

- (3) If such a change is given official approval, the person who obtained the approval must advertise the change in accordance with the directions of the person by whom the approval was given.

Maximum penalty: 20 penalty units.

#### **31 Return of butts and drawing-dockets**

Any person who has agreed to sell lottery tickets must, before the draw, return to the organisers of the lottery:

- (a) all ticket-butts and drawing-dockets (or appropriate computer-generated documents) relating to lottery tickets sold by the person, and
- (b) all money received from the sale of lottery tickets, and
- (c) all unsold tickets held by the person.

Maximum penalty: 20 penalty units.

#### **32 All lottery tickets sold to be included in draw**

- (1) All lottery tickets sold are to be represented in the draw for prizes.
- (2) In the case of a lottery to be determined by drawing a drawing-docket, computer-generated document or other object, the dockets, document or objects are to be placed in a single container and thoroughly mixed so

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Part 3 Lotteries conducted by art unions

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as to give each holder of a lottery ticket an equal chance of winning a prize in respect of each lottery ticket that he or she holds.

- (3) If a lottery ticket sold in the lottery is not represented in the draw, the organisers of the lottery must use their best endeavours to ensure that any money received from the sale of the ticket is refunded to the holder of the ticket within 7 days after the draw is held.

Maximum penalty: 20 penalty units.

### **33 Conduct of draw**

- (1) The prize-winning tickets are to be determined by drawing, at random, from:
- (a) the drawing-dockets, computer-generated documents or other objects representing the lottery tickets sold in the lottery, or
  - (b) numbers corresponding to the numbers of the lottery tickets sold in the lottery.
- (2) A mechanical or electronic device must not be used for the purpose of the draw unless the device has official approval.
- (3) The draw is to be made by a person who has official approval, other than a person who is an organiser of the lottery.
- (4) Any person who wishes to attend the draw may do so.
- (5) The organisers of the lottery must ensure compliance with this clause.
- Maximum penalty: 20 penalty units.

### **34 Notification of prizewinners**

The organisers of a lottery must use their best endeavours:

- (a) to advise each prizewinner (within 2 days after the draw) of the prize that the prizewinner has won, and
- (b) to ensure that particulars of the result of the draw are published (within 7 days after the draw):
  - (i) in a newspaper or other publication (such as a magazine) circulating generally throughout New South Wales, or
  - (ii) on the internet website of the organisers of the lottery, if any, or
  - (iii) both.

Maximum penalty: 20 penalty units.

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## **Division 4 Prizes**

### **35 Maintenance of prizes comprising real property**

- (1) The organisers of a lottery in which a prize includes real property must maintain any improvements erected on the property and must keep the property and improvements insured for their full market value against loss or damage until the date when the prize is transferred or conveyed to the prizewinner.  
Maximum penalty: 20 penalty units.
- (2) Until that date, the art union conducting the lottery concerned is liable for all outgoings on the property and is entitled to receive all rents and profits from the property.
- (3) The prizewinner is liable for all outgoings on the property and is entitled to receive all rents and profits from the property on and from the date of the transfer or conveyance.
- (4) Any necessary apportionment of outgoings, rents or profits is to be made as at the time of the transfer or conveyance.
- (5) All rents and profits received by the art union (less any outgoings on the property) are taken to form part of the payments to the art union.

### **36 Substitution of prizes**

- (1) An application under section 6B (2) of the Act for the Minister's approval of the substitution of a prize in a lottery is to be signed by the promoter of the art union conducting the lottery.
- (2) The application is to contain the following information:
  - (a) a description (including the retail value) of the prize that was to have been awarded,
  - (b) a description (including the retail value) of the new prize,
  - (c) the reason for the proposed substitution.
- (3) The application is to be accompanied by documentary evidence of the cost to the art union, and the retail value, of the new prize.
- (4) If the application relates to a major prize, it must also contain details of:
  - (a) the measures to be taken to inform purchasers of tickets in the lottery concerned of the proposed substitution of the prize, and
  - (b) the opportunity to be given to those purchasers to obtain refunds.
- (5) The Minister may refuse to consider any application which does not comply with the requirements of this clause.

Clause 37 Lotteries and Art Unions Regulation 2007

Part 3 Lotteries conducted by art unions

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- (6) For the purposes of the definition of *major prize* in section 6B (1) of the Act, the prescribed amount is \$75,000.

**37 Maximum prizes**

For the purposes of section 6 (1) (g) of the Act, the prescribed amount of money that a prize given to any one member may not exceed is \$5,000.

**38 Money component of travel prizes**

For the purposes of section 6 (1) (g1) of the Act, the money component of a prize that is offered in conjunction with tickets for tours or journeys must not exceed 20% of the total value of the prize.

**Division 5 Miscellaneous**

**39 Information and publicity generally**

The organisers of a lottery must use their best endeavours to ensure that any information or publicity in connection with the lottery includes the following:

- (a) the name of the art union conducting the lottery,
- (b) the name of the benefiting organisation,
- (c) the date of the draw,
- (d) the number of lottery tickets in the lottery,
- (e) the name and address of the promoter of the art union,
- (f) the number of the permit issued in respect of the art union.

Maximum penalty: 20 penalty units.

**40 Proceeds to be devoted to fundraising object**

For the purposes of section 6 (1) (f) of the Act, the prescribed proportion is 40% of the gross proceeds of any lottery conducted by the art union.

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Clause 41

Draw lotteries conducted by charitable and non-profit organisations

Part 4

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## **Part 4 Draw lotteries conducted by charitable and non-profit organisations**

### **Division 1 Preliminary**

#### **41 Application**

This Part applies to draw lotteries conducted under section 4 of the Act.

### **Division 2 Draw lottery tickets**

#### **42 Form of draw lottery tickets**

- (1) Each series of draw lottery tickets must be distinguished (by colour, serial number or otherwise) from each other series of draw lottery tickets, and the draw lottery tickets in each series must be numbered consecutively.
- (2) Each draw lottery ticket, other than a computer-generated draw lottery ticket, must consist of a purchaser's portion and a ticket-butt, each of which complies with the requirements of clause 43.
- (3) Each computer-generated draw lottery ticket must include a purchaser's portion (complying with the requirements of clause 43), and may include a ticket-butt.
- (4) If a computer-generated draw lottery ticket (whether partly pre-printed or not) does not contain a ticket-butt, the computer records for the ticket must contain the information required by this Division to be shown on a ticket-butt.
- (5) The organisers of the draw lottery must ensure compliance with the requirements of this clause.  
Maximum penalty: 20 penalty units.

#### **43 Information to be available to purchasers**

- (1) The purchaser's portion of a draw lottery ticket must include the serial number of the ticket and, if the total value of the prizes in the lottery exceeds \$5,000, must also include:
  - (a) the price of the ticket, and
  - (b) the name of the benefiting organisation.
- (2) A ticket-butt must show the serial number of the ticket and, if the total value of the prizes in the lottery exceeds \$5,000, must contain provision for the name and address of the purchaser.

Clause 44 Lotteries and Art Unions Regulation 2007

Part 4 Draw lotteries conducted by charitable and non-profit organisations

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- (3) The organisers of a draw lottery must use their best endeavours to ensure that the following additional information is available to purchasers of draw lottery tickets:
- (a) details of the prizes and their value,
  - (b) the place, time and date of the draw,
  - (c) details of how the prizewinners will be notified,
  - (d) if the total value of the prizes in the lottery is \$5,000 or less:
    - (i) the price of a ticket, and
    - (ii) the name of the benefiting organisation,
  - (e) details of the way in which the results of the draw will be publicised, and
  - (f) details of any specific rules applying to the draw lottery.
- Maximum penalty: 20 penalty units.
- (4) It is sufficient compliance with the requirements of subclause (3) if the information is printed on the draw lottery ticket.

#### **44 Particulars to be recorded**

At the time a person sells a draw lottery ticket in a draw lottery in which the total value of the prizes exceeds \$5,000, the person:

- (a) must cause the name and address of the purchaser or purchaser's nominee to be written legibly on the ticket-butt, or
- (b) in the case of a computer-generated ticket, must cause the name and address of the purchaser or purchaser's nominee to be entered into the computer records in relation to the ticket.

Maximum penalty: 20 penalty units.

#### **45 Return of butts**

Any person who has agreed to sell draw lottery tickets must, before the draw, return to the organisers of the lottery:

- (a) all ticket-butts (or appropriate computer-generated documents) relating to draw lottery tickets sold by the person, and
- (b) all money received from the sale of draw lottery tickets, and
- (c) all unsold draw lottery tickets held by the person.

Maximum penalty: 20 penalty units.

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Clause 46

Draw lotteries conducted by charitable and non-profit organisations

Part 4

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### **Division 3      Draw for prizes**

#### **46    Draw for prizes to take place as advertised**

The organisers of a lottery must use their best endeavours to ensure that the draw for the prizes in the lottery takes place:

- (a) in accordance with the information specified on the tickets for the lottery (or otherwise provided to the purchasers of the tickets), or
- (b) if a change to the place, date or time of the draw is advertised— as so advertised.

Maximum penalty: 20 penalty units.

#### **47    All draw lottery tickets sold to be included in draw**

- (1) All draw lottery tickets sold are to be represented in the draw for prizes.
- (2) In the case of a lottery to be determined by drawing a ticket-butt, computer-generated document or other object, the butts, documents or objects are to be placed in a single container and thoroughly mixed so as to give each holder of a draw lottery ticket an equal chance of winning a prize in respect of each ticket that he or she holds.
- (3) If a draw lottery ticket sold in the lottery is not represented in the draw, the organisers of the draw lottery must use their best endeavours to ensure that any money received from the sale of the ticket is refunded to the holder of the ticket within 7 days after the draw is held.

Maximum penalty: 20 penalty units.

#### **48    Conduct of draw**

- (1) The prize-winning tickets are to be determined by drawing, at random, from:
  - (a) the ticket-butts, computer-generated documents or other objects representing the lottery tickets sold in the lottery, or
  - (b) numbers corresponding to the numbers of the lottery tickets sold in the lottery.
- (2) A mechanical or electronic device must not be used for the purposes of the draw unless the device has official approval.
- (3) Any person who wishes to attend the draw may do so.
- (4) The organisers of the draw lottery must ensure compliance with this clause.

Maximum penalty: 20 penalty units.



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Part 4	Draw lotteries conducted by charitable and non-profit organisations

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#### **49 Notification of prizewinners**

- (1) The organisers of a draw lottery must use their best endeavours:
  - (a) to advise each prizewinner (within 2 days after the draw) of the prize that the prizewinner has won, and
  - (b) in the case of a draw lottery in which the total value of the prizes exceeds \$5,000, to ensure that particulars of the result of the draw are published (within 7 days after the draw):
    - (i) in a newspaper or other publication (such as a magazine) circulating generally throughout the region in which the lottery was conducted, or
    - (ii) on the internet website of the organisers of the draw lottery, if any, or
    - (iii) both.

Maximum penalty: 20 penalty units.
- (2) This clause does not apply if the organisers have obtained official approval to act otherwise than in accordance with it.

#### **Division 4 Miscellaneous**

##### **50 Maximum value of prizes**

- (1) For the purposes of section 4 (3) (a) of the Act, the prescribed amount for a draw lottery is \$25,000.
- (2) For the purposes of section 4 (3) (c) of the Act, the prescribed amount of money that a prize in any one draw lottery must not exceed is \$5,000.

##### **51 Money component of travel prizes in draw lotteries**

For the purposes of section 4 (3) (c1) of the Act, the money component of a prize for a draw lottery that is offered in conjunction with tickets for tours or journeys must not exceed 20% of the total value of the prize.

##### **52 Proceeds to be devoted to fundraising object in draw lotteries**

For the purposes of section 4 (3) (e) of the Act, the prescribed proportion is 40% of the gross proceeds of any draw lottery.

##### **53 Application for reduction in percentage of takings to be paid to organisation**

An application under section 4 (4) of the Act in relation to a draw lottery is to be made to the Minister in writing by the organisers of the lottery and is to specify the circumstances of an unusual nature which arose in connection with the conduct of the lottery.

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Clause 54

No-draw lotteries

Part 5

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## **Part 5 No-draw lotteries**

### **Division 1 Preliminary**

#### **54 Application**

This Part applies to no-draw lotteries conducted under section 4 of the Act.

### **Division 2 No-draw lottery tickets and cards**

#### **55 Form of no-draw lottery tickets**

- (1) Each series of no-draw lottery tickets or no-draw lottery cards must be distinguished (by colour, serial number or otherwise) from each other series of no-draw lottery tickets or no-draw lottery cards, and the tickets or cards in each series must be numbered consecutively.
- (2) No-draw lottery tickets and no-draw lottery cards must be produced in such a way as to ensure that the symbol or symbols that may confer a right to a prize on participants cannot be determined without removing the opaque material that covers the symbol or symbols.
- (3) In addition to complying with subclause (1), each no-draw lottery ticket or no-draw lottery card:
  - (a) must specify the price to be paid for the ticket or for the right to participate in the lottery, and
  - (b) must specify the name of the benefiting organisation.
- (4) No-draw lottery cards must make provision for the names of the participants, and their addresses or telephone numbers, to be recorded on the cards.
- (5) In the case of a no-draw lottery conducted by means of no-draw lottery tickets, no more than 3,000 lottery tickets are to be produced or obtained for sale for the lottery.
- (6) The organisers of the no-draw lottery must ensure compliance with the requirements of this clause.  
Maximum penalty: 20 penalty units.

#### **56 Information to be available to purchasers of no-draw lottery tickets**

- (1) The organisers of a no-draw lottery must use their best endeavours to ensure that the following additional information is available to participants in a no-draw lottery:

Clause 57 Lotteries and Art Unions Regulation 2007

Part 5 No-draw lotteries

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- (a) details of the prizes and their value,
  - (b) details of how prizes may be claimed by the winners or, in the case of a no-draw lottery where participants are not able to determine whether they have won a prize (either immediately or by reference to the outcome of some subsequent event which the public may reasonably be expected to know about), details of how the prizewinners will be notified and of the way in which the results will be publicised,
  - (c) the rules under which persons may participate in the lottery.
- Maximum penalty: 20 penalty units.
- (2) It is sufficient compliance with the requirements of subclause (1) if the information is printed on the no-draw lottery tickets or no-draw lottery cards concerned.

#### **57 Return of unsold no-draw lottery tickets**

- (1) When requested by the organisers of the lottery to do so and, in any event, as soon as the lottery is concluded, any person who has agreed to sell tickets or rights to participate in a no-draw lottery must return to the organisers of the lottery:
  - (a) all money received from the sale of those tickets or rights, and
  - (b) in the case of a no-draw lottery conducted by means of no-draw lottery tickets, all unsold tickets held by the person, and
  - (c) in the case of a no-draw lottery conducted by means of no-draw lottery cards, all no-draw lottery cards issued to the person.

Maximum penalty: 20 penalty units.
- (2) For the purposes of subclause (1), a no-draw lottery is concluded when all the tickets or rights to participate in the lottery:
  - (a) are sold, or
  - (b) are withdrawn from sale, or
  - (c) are partly sold with the remainder having been withdrawn from sale.

### **Division 3 Prizes and prizewinners**

#### **58 Maximum value of prizes**

- (1) For the purposes of section 4 (3) (a) of the Act, the prescribed amount for a no-draw lottery is \$5,000.
- (2) For the purposes of section 4 (3) (c) of the Act, the prescribed amount of money that a prize in any one no-draw lottery must not exceed is \$5,000.

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No-draw lotteries

Part 5

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**59 Money component of travel prizes in no-draw lotteries**

For the purposes of section 4 (3) (c1) of the Act, the money component of a prize for a no-draw lottery that is offered in conjunction with tickets for tours or journeys must not exceed 20% of the total value of the prize.

**60 Errors not to affect availability of prizes**

- (1) A participant in a no-draw lottery is not to be deprived of a right to a prize in the lottery merely because of a mistake (such as the inclusion of the wrong number of prize-winning symbols) in the production of the relevant no-draw lottery tickets or no-draw lottery cards.
- (2) Subclause (1) applies even though the pool of prizes or money set aside for the purchase of prizes has been exhausted or is insufficient to provide the relevant prize, but does not apply if:
  - (a) the mistake is in the prizewinning symbol or symbols on the relevant no-draw lottery ticket or no-draw lottery card, and
  - (b) the purchaser of the ticket or right to participate in the lottery, at or before the time of purchase, was provided with information as to, or could reasonably be expected to be otherwise aware of, the prizes being offered by the organisers.
- (3) The cost of supplying additional prizes as a result of the operation of this clause:
  - (a) is to be met by the organisers of the no-draw lottery, and
  - (b) is not to be met from the gross proceeds of the no-draw lottery unless the lottery is conducted by the organisation concerned as principal.

**61 Notification of prizewinners in certain cases**

In the case of a no-draw lottery where participants are not able to determine whether they have won a prize (either immediately or by reference to the outcome of some subsequent event which the public may reasonably be expected to know about), the organisers of the lottery must use their best endeavours to advise each prizewinner, within 2 days after the result of the lottery is determined, of the prize that the prizewinner has won.

Maximum penalty: 20 penalty units.

Clause 62 Lotteries and Art Unions Regulation 2007

Part 5 No-draw lotteries

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## Division 4 Miscellaneous

### 62 Not more than one no-draw lottery to be conducted for non-profit organisation at any one time

- (1) A non-profit organisation that conducts a no-draw lottery must not conduct another no-draw lottery until the first-mentioned lottery is concluded.

Maximum penalty: 20 penalty units.

- (2) A non-profit organisation on behalf of which a no-draw lottery is conducted must use its best endeavours to ensure that no other no-draw lottery is conducted on behalf of the organisation until the first-mentioned lottery is concluded.

Maximum penalty: 20 penalty units.

- (3) For the purposes of subclauses (1) and (2), a no-draw lottery is concluded when all the tickets or rights to participate in the lottery:

- (a) are sold, or
- (b) are withdrawn from sale, or
- (c) are partly sold with the remainder having been withdrawn from sale.

- (4) If a no-draw lottery is conducted in contravention of this clause by or on behalf of a non-profit organisation that is not a body corporate, the person who is guilty of the offence is:

- (a) the person who gave the instructions for the conduct of the lottery, or
- (b) if no such instructions were given—the person who conducted the lottery.

- (5) A person is not guilty of the offence referred to in subclause (4) if the person did not know, and could not reasonably be expected to have known, that the conduct of the lottery concerned contravened this clause.

### 63 Dispensing machines not to be used for sale of no-draw lottery tickets

A person who sells no-draw lottery tickets by means of a coin-operated ticket dispensing machine is guilty of an offence.

Maximum penalty: 20 penalty units.

### 64 Proceeds to be devoted to fundraising object in no-draw lotteries

For the purposes of section 4 (3) (e) of the Act, the prescribed proportion is 40% of the gross proceeds of any no-draw lottery.

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Clause 65

No-draw lotteries

Part 5

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**65 Application for reduction in percentage of takings to be paid to organisation**

An application under section 4 (4) of the Act in relation to a no-draw lottery is to be made to the Minister in writing by the organisers of the lottery and is to specify the circumstances of an unusual nature which arose in connection with the conduct of the lottery.

Clause 66 Lotteries and Art Unions Regulation 2007

Part 6 Mini-numbers lotteries

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## Part 6 Mini-numbers lotteries

### Division 1 Preliminary

#### 66 Application

This Part applies to and in respect of mini-numbers lotteries conducted under section 4 of the Act.

#### 67 Definitions

In this Part:

*authorised selling agent*, in relation to a mini-numbers lottery, means a person appointed, with the person's consent, by the organisers of the lottery or the benefiting organisation as an agent for the sale of tickets in the lottery.

*continuing lottery* means a mini-numbers lottery that is conducted so that any undistributed prizes are carried over to a subsequent mini-numbers lottery.

*mini-numbers ticket* means a ticket produced for use in a mini-numbers lottery.

*prize pool* means the amount of money available to purchase the prizes in a mini-numbers lottery.

*terminating lottery* means a mini-numbers lottery that is conducted so as to ensure that all prizes in the lottery are distributed as a result of the lottery.

### Division 2 Limit on conduct of mini-numbers lotteries

#### 68 Only one lottery to be conducted at a time

- (1) A benefiting organisation that conducts a mini-numbers lottery must not:
- (a) conduct more than one draw for prizes in the lottery during any period of 7 consecutive days, or
  - (b) conduct another mini-numbers lottery until the first-mentioned lottery is concluded.

Maximum penalty: 20 penalty units.

- (2) A benefiting organisation on behalf of which a mini-numbers lottery is conducted must use its best endeavours to ensure that:
- (a) not more than one draw for prizes in the lottery is conducted during any period of 7 consecutive days, and

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Clause 69

Mini-numbers lotteries

Part 6

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(b) no other mini-numbers lottery is conducted on behalf of the organisation until the first-mentioned lottery is concluded.

Maximum penalty: 20 penalty units.

- (3) For the purposes of subclauses (1) and (2), a mini-numbers lottery is concluded at the end of the draw (or, in the case of a terminating lottery, the final draw) for the prizes in the lottery.
- (4) If a mini-numbers lottery, or a draw for prizes in a mini-numbers lottery, is conducted in contravention of this clause by or on behalf of a benefiting organisation that is not a body corporate, the person who is guilty of the offence is:
- (a) the person who gave the instructions for the conduct of the lottery or draw, or
  - (b) if no such instructions were given—the person who conducted the lottery or draw.
- (5) A person is not guilty of the offence referred to in subclause (4) if the person did not know, and could not reasonably be expected to have known, that the conduct of the lottery or draw concerned contravened this clause.

**69 Only one lottery at a time to be conducted on any one premises**

A registered club, licensee of a hotel or person in charge of premises other than a registered club or hotel must not permit or suffer more than one mini-numbers lottery to be conducted on the premises at any one time.

Maximum penalty: 20 penalty units.

**70 Value of prizes in mini-numbers lotteries**

- (1) The prize pool for a mini-numbers lottery must contain at least 50% of the money received from the sale of mini-numbers tickets for the lottery.
- (2) For the purposes of section 4 (3) (c) of the Act, the prescribed amount of money that a prize in any one mini-numbers lottery must not exceed is \$5,000.
- (3) For the purposes of section 4 (3) (c1) of the Act, the money component of a prize for a mini-numbers lottery that is offered in conjunction with tickets for tours or journeys must not exceed 20% of the total value of the prize.
- (4) Despite subclauses (1) and (3), the prize pool for a mini-numbers lottery is not to exceed \$10,000.



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- (5) If the amount in a prize pool would otherwise exceed \$10,000:
- (a) the organisers of the lottery concerned must conduct the lottery as a terminating lottery with a prize pool of \$10,000, and
  - (b) the organisers must, at their discretion, either:
    - (i) pay the amount of any excess to the benefiting organisation, or
    - (ii) carry that excess over to another mini-numbers lottery conducted (whether as a continuing lottery or as a terminating lottery) by the organisers for the benefit of that benefiting organisation, or
    - (iii) pay part of the amount of that excess to the benefiting organisation and carry the balance over to the lottery referred to in subparagraph (ii).

Maximum penalty: 20 penalty units.

- (6) The organisers must use their best endeavours to ensure that any new mini-numbers lottery referred to in subclause (5) (b) (ii) is conducted no later than 28 days after the date of the conduct of the lottery referred to in subclause (5) (a).

Maximum penalty: 20 penalty units.

### **Division 3 Mini-numbers lottery tickets**

#### **71 Entry to lottery**

- (1) Entry to a mini-numbers lottery is to be by the purchase of a mini-numbers ticket.
- (2) A person must not issue a mini-numbers ticket to any other person otherwise than:
  - (a) for money to the amount of the face value of the ticket, or
  - (b) for other consideration equivalent to the face value of the ticket.

Maximum penalty: 20 penalty units.

- (3) The face value of a mini-numbers ticket must not exceed \$2.

#### **72 Distribution of tickets**

The organiser of a mini-numbers lottery must not send, or otherwise distribute, mini-numbers tickets to any other person (whether for purchase by that other person or for sale by that other person as an agent for the organisers of the mini-numbers lottery) unless the person is an authorised selling agent.

Maximum penalty: 20 penalty units.

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**73 Form of tickets**

- (1) Each series of mini-numbers tickets must be distinguished (by serial number or unique symbol) from each other series of such tickets, and the tickets in each series must be numbered consecutively.
- (2) A mini-numbers ticket must not provide for more than 2 entries to the lottery concerned.
- (3) Each mini-numbers ticket must consist of:
  - (a) an official entry portion complying with the requirements of clause 74, and
  - (b) a purchaser's portion, containing a copy of the official entry portion.
- (4) The organisers of the mini-numbers lottery must ensure compliance with the requirements of this clause.  
Maximum penalty: 20 penalty units.

**74 Requirements of official entry portion of ticket**

- (1) The official entry portion of a mini-numbers ticket must include 20 boxes, numbered from 1 to 20, for each entry on the ticket.
- (2) The official entry portion of the ticket:
  - (a) must indicate whether the lottery is a continuing lottery or a terminating lottery, and
  - (b) must specify that the purchaser is to choose 6 numbers from the numbered boxes, for each entry on the ticket, and
  - (c) must indicate which of the numbers (if any) have been excluded from the draw and should therefore not be chosen.
- (3) The official entry portion of the ticket must also specify the following:
  - (a) the identifying serial number or unique symbol distinguishing the series of tickets to which the ticket belongs,
  - (b) the number of the ticket,
  - (c) the price of the ticket,
  - (d) the name of the benefiting organisation,
  - (e) the amount (or the percentage of the total amount received from the sale of tickets in the lottery) that is to be returned to that organisation,
  - (f) the way in which the prize pool is to be determined.

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- (4) The official entry portion of the ticket must contain the following:
- (a) provision for the purchaser to record his or her choice of numbers,
  - (b) provision for recording the purchaser's name, address and telephone number,
  - (c) provision for the name of the authorised selling agent.

**75 Additional information to be made available to purchaser**

- (1) The organisers of a mini-numbers lottery must use their best endeavours to ensure that the following additional information is made available to purchasers of tickets in the lottery:
- (a) instructions as to the way in which the purchaser is to mark his or her choice of numbers,
  - (b) the closing date and time for the receipt of entries in the lottery,
  - (c) the place, date and time of the draw,
  - (d) details of how the results of the draw will be publicised,
  - (e) what is to happen if there is more than one winner in the lottery,
  - (f) the way in which winners are to be notified and are to collect their prizes.

Maximum penalty: 20 penalty units.

- (2) It is sufficient compliance with subclause (1) if the information is printed on the back of the purchaser's portion of the ticket.

**Division 4 Marking of tickets in mini-numbers lotteries**

**76 Selling agent to supervise marking of ticket**

- (1) The purchaser of a ticket in a mini-numbers lottery is to mark the ticket in the presence of the authorised selling agent and immediately hand the marked ticket back to the agent.
- (2) The agent is to check both the official entry portion and the purchaser's portion of the ticket.  
Maximum penalty: 20 penalty units.
- (3) If the ticket has not been completed, the agent must immediately return the ticket to the purchaser for completion.  
Maximum penalty: 20 penalty units.

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- (4) If the purchaser's choice of numbers has been altered in any way (for example, by the crossing out of a chosen number and the choice of an alternative number), the agent must:
- (a) cancel both the official entry portion and the purchaser's portion of the ticket, and
  - (b) provide the purchaser with a fresh ticket.
- Maximum penalty: 20 penalty units.
- (5) Subclauses (1)–(4) apply in respect of the fresh ticket in the same way as they apply in respect of the original ticket.

#### **77 Marked tickets**

- (1) An authorised selling agent must signify his or her acceptance of a properly marked ticket:
- (a) by initialling both the official entry portion and the purchaser's portion of the ticket, and
  - (b) by returning the initialled purchaser's portion to the purchaser.
- Maximum penalty: 20 penalty units.
- (2) The agent must retain both portions of a cancelled ticket together.
- Maximum penalty: 20 penalty units.

### **Division 5 Draw for prizes**

#### **78 Draw for prizes to take place as advertised**

- (1) The organisers of a mini-numbers lottery must use their best endeavours to ensure that the draw for the prizes in the lottery takes place:
- (a) in accordance with the information specified on the tickets for the lottery (or otherwise provided to the purchasers of the tickets), or
  - (b) if notice of a change to the place, date or time of the draw is displayed in accordance with this clause—as specified in that notice.
- Maximum penalty: 20 penalty units.
- (2) In particular, the organisers of a series of continuing lotteries must use their best endeavours to ensure that the draw for prizes in each lottery takes place on the same day, and at the same time, each week.
- Maximum penalty: 20 penalty units.
- (3) However, the time or day of the draw for prizes in any mini-numbers lottery (or both the time and the day) may be changed if notice of the change is prominently displayed in accordance with subclause (4) for the 24 hours immediately before the new time of the draw.

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- (4) The organisers of a series of continuing lotteries must cause the time and place of the draw to be prominently displayed:
- (a) at the main premises of the benefiting organisation, and
  - (b) if the draw is to take place at any other premises—at those other premises.

Maximum penalty: 20 penalty units.

#### **79 Return of mini-numbers tickets**

- (1) An authorised selling agent must return the following to the organisers of a mini-numbers lottery:
- (a) all official entry portions of the mini-numbers tickets sold by the agent,
  - (b) all money received by the agent from the sale of the tickets,
  - (c) all unsold tickets held by the agent,
  - (d) all cancelled tickets held by the agent.

Maximum penalty: 20 penalty units.

- (2) The agent must not sell any tickets in the lottery after the closing time for the receipt of entries in the lottery.

Maximum penalty: 20 penalty units.

- (3) The items referred to in subclause (1) are to be returned in accordance with any instructions of the organisers.

#### **80 Tickets to be kept safe**

The organisers of a mini-numbers lottery are to keep all returned tickets safe until the draw for prizewinners has taken place.

Maximum penalty: 20 penalty units.

#### **81 Reconciliation of mini-numbers tickets sold**

- (1) The organisers of a mini-numbers lottery must, before the draw in the lottery takes place, prepare a statement in accordance with this clause.

Maximum penalty: 20 penalty units.

- (2) The statement is to reconcile the mini-numbers tickets distributed for sale with all material returned.

- (3) Any tickets that have been distributed for sale but not returned must be noted in the statement.

- (4) The reconciliation must, as far as practicable, be carried out in sufficient time to allow the draw to take place as advertised.

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- (5) The statement must be signed by the organisers of the mini-numbers lottery and is to form part of the records relating to the conduct of the lottery.

#### **82 Missing mini-numbers tickets**

- (1) If a mini-numbers ticket was distributed for sale and not returned, the organisers of the lottery concerned must cause a notice specifying the number of the missing ticket to be displayed:
- (a) at the main premises of the benefiting organisation, and
  - (b) if the draw is to take place at any other premises, at those other premises,
- for the 24 hours immediately before the time of the draw.  
Maximum penalty: 20 penalty units.
- (2) The purchaser of a missing ticket who, before the time of the draw, produces to the organisers the purchaser's portion of the ticket, duly initialled by the authorised selling agent, is entitled to have a copy of that portion regarded as the official entry portion for the purposes of determining the winner of the lottery.

#### **83 All tickets sold to be included in determination of winner**

- (1) All mini-numbers tickets sold are to be included in the determination of the winner of the lottery concerned.
- (2) If a mini-numbers ticket is not included in the determination of the winner, the organisers of the lottery concerned must use their best endeavours to ensure that any money received from the sale of the ticket is refunded to the holder of the ticket within 7 days after the winner is determined.  
Maximum penalty: 20 penalty units.

#### **84 Attendance at draw**

- (1) The draw must be conducted in a place at which the public may attend.
- (2) The draw is to be made in the presence and under the supervision of 2 or more persons engaged in the management of the benefiting organisation.
- (3) Any other person who wishes to attend the draw may do so.
- (4) The organisers must not impose, as a condition of entitlement to a prize, a requirement that the holder of a prizewinning ticket be present at the draw.
- (5) The results of the draw are to be certified in writing by at least 2 of the persons referred to in subclause (2).

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- (6) The organisers of the lottery must use their best endeavours to ensure compliance with this clause.

Maximum penalty: 20 penalty units.

#### **85 Conduct of draw**

- (1) The prizewinner in a mini-numbers lottery is to be determined by the drawing of 6 numbers at random.
- (2) A mechanical or electronic device must not be used for the purpose of the draw unless the device has official approval.
- (3) The draw is to be from the numbers 1–20.
- (4) However, if any part of a prize is carried over from a previous lottery, the draw is to be from the following numbers:
  - (a) 1–19, for the first lottery to which the prize is carried over,
  - (b) 1–18, for the second lottery to which the prize is carried over,
  - (c) 1–17, for the third lottery to which the prize is carried over,
  - (d) 1–16, for the fourth lottery to which the prize is carried over,
  - (e) 1–15, for the fifth lottery to which the prize is carried over,
  - (f) 1–14, for the sixth lottery to which the prize is carried over,
  - (g) 1–13, for the seventh or subsequent lottery to which the prize is carried over.
- (5) The prizewinner is the person whose mini-numbers ticket indicates that the person chose the 6 numbers drawn.

#### **86 Terminating lotteries**

- (1) This clause applies to terminating lotteries only.
- (2) If there is no prizewinner under clause 85, the prizewinner is to be:
  - (a) the person whose mini-numbers ticket indicates that the person has chosen 5 of the numbers drawn, or
  - (b) if there is still no prizewinner, the person whose mini-numbers ticket indicates that the person has chosen 4 of the numbers drawn, or
  - (c) if there is still no prizewinner, the person whose mini-numbers ticket indicates that the person has chosen 3 of the numbers drawn, or
  - (d) if there is still no prizewinner, the person whose mini-numbers ticket indicates that the person has chosen 2 of the numbers drawn, or

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- (e) if there is still no prizewinner, the person whose mini-numbers ticket indicates that the person has chosen 1 of the numbers drawn.
  - (3) If there is still no prizewinner, a further draw is to be conducted in accordance with clause 85 (from the same numbers as those for the first draw in the current lottery), and the provisions of clause 87 and this clause are to apply to that further draw.
  - (4) The procedures specified in subclauses (2) and (3) are to be repeated until a prizewinner is obtained.
  - (5) The provisions of clause 68 (1) (a) and (2) (a) do not apply to a terminating lottery.

#### **87 Multiple prizewinners**

If the mini-numbers tickets of 2 or more persons indicate that they are each a prizewinner, the prizes are to be shared equally among them.

#### **88 Notification of prizewinners**

The organisers of a mini-numbers lottery must use their best endeavours:

- (a) to advise each prizewinner (within 2 days after the draw) of the prize that the prizewinner has won, and
- (b) to cause the results of the draw to be prominently displayed:
  - (i) at the main premises of the benefiting organisation, and
  - (ii) if the draw took place at any other premises, at those other premises, and
- (c) to ensure that particulars of the result of the draw are published (within 7 days after the draw):
  - (i) in a newspaper or other publication (such as a magazine) circulating generally throughout the region in which the mini-numbers lottery was conducted, or
  - (ii) on the internet website of the organisers of the mini-numbers lottery, if any, or
  - (iii) both.

Maximum penalty: 20 penalty units.



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### **89 Awarding of prizes**

- (1) The organisers of a mini-numbers lottery must use their best endeavours to arrange for the relevant prize to be given to each prizewinner within 7 days after the determination of the prizewinners in the lottery.  
Maximum penalty: 20 penalty units.
- (2) The prizewinner does not have to claim the prize.

## **Division 6 Money received**

### **90 Money to be banked**

As soon as practicable after receiving money in relation to a mini-numbers lottery, the organisers of the lottery must pay the money into an account at an authorised deposit-taking institution, being an account belonging to the benefiting organisation.

Maximum penalty: 20 penalty units.

### **91 Deduction of expenses of conduct of mini-numbers lottery**

- (1) The following amounts may be deducted from money received in connection with a mini-numbers lottery:
  - (a) the cost of producing or obtaining the tickets for the lottery,
  - (b) the reasonable cost of advertising and promoting the lottery,
  - (c) the reasonable cost of hiring or operating any device, or renting any premises, for use in the conduct of the lottery,
  - (d) the cost of the prizes to be awarded to winners in the lottery,
  - (e) the cost of auditing the accounts relating to the lottery.
- (2) However, the amounts deducted (other than the amounts deducted to purchase the prizes) must not exceed 10% of the money received.
- (3) The organisers must not make any deduction from money received in connection with a mini-numbers lottery unless the deduction is authorised by this clause.  
Maximum penalty: 20 penalty units.

### **92 Proceeds to be devoted to fundraising object in mini-numbers lotteries**

For the purposes of section 4 (3) (e) of the Act, the prescribed proportion is 40% of the gross proceeds of any mini-numbers lottery.

### **93 Application for reduction in percentage of takings to be paid to organisation**

An application under section 4 (4) of the Act in relation to a mini-numbers lottery is to be made to the Minister in writing by the

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organisers of the lottery and is to specify the circumstances of an unusual nature which arose in connection with the conduct of the lottery.

## **Division 7      Miscellaneous**

### **94    No commission payable**

Despite the other provisions of this Regulation, no commission, fee or other benefit is payable to an organiser of a mini-numbers lottery or to an authorised selling agent of tickets in the lottery.

### **95    Retention of tickets**

The organisers of a mini-numbers lottery:

- (a) must retain all unsold mini-numbers tickets for at least 3 years (or such shorter period as is given official approval either generally or in a particular case) after the prizewinner in the lottery concerned is determined, and
- (b) must retain all sold and cancelled mini-numbers tickets for 6 months after the determination of the prizewinner.

Maximum penalty: 20 penalty units.

### **96    Certain persons not to be involved in mini-numbers lottery**

The following persons must not play a mini-numbers lottery:

- (a) the benefiting organisation,
- (b) a person involved in the management of the benefiting organisation,
- (c) the organisers of the lottery,
- (d) a person conducting the draw in the lottery,
- (e) the spouse, de facto spouse or other family member of a person referred to in paragraph (b)–(d), if the spouse or family member lives at the same address as that person.

Maximum penalty: 20 penalty units.

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Part 7 Progressive lotteries

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## Part 7 Progressive lotteries

### Division 1 Preliminary

#### 97 Definitions

In this Part:

*ticket* includes a right to participate in a progressive lottery.

*tipping competition* means a progressive lottery consisting of a competition (or other lottery or game of chance conducted along substantially similar lines) in which:

- (a) the participants predict the outcome or results of a sporting or other contingency, and
- (b) points are awarded for successful predictions, and
- (c) the prize pool is wholly distributed in accordance with the rules of the competition, and
- (d) periodical prizes may be awarded (in accordance with the rules of the competition).

#### 98 Permit required

For the purposes of section 4F (2) (a) of the Act, the prescribed amount in relation to a progressive lottery is \$20,000.

### Division 2 Prizes and prizewinners

#### 99 Maximum value of prizes

For the purposes of section 4F (2) (d) of the Act, the prescribed amount of money that a prize in a progressive lottery must not exceed is \$5,000.

#### 100 Money component of travel prizes

For the purposes of section 4F (2) (e) of the Act, the money component of a prize that is offered in conjunction with tickets for tours or journeys must not exceed 20% of the total value of the prize.

#### 101 Notification of prizewinners

- (1) The organisers of a progressive lottery must use their best endeavours:
  - (a) to advise each prizewinner (within 2 days after the result of each draw is determined) of the prize that the prizewinner has won, and
  - (b) in the case of a progressive lottery in which the total value of prizes exceeds \$5,000, to ensure that particulars of the results of a draw are published (within 7 days after the draw):

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- (i) in a newspaper or other publication (such as a magazine) circulating generally throughout the region in which the progressive lottery was conducted, or
  - (ii) on the internet website of the organisers of the progressive lottery, if any, or
  - (iii) both, and
- (c) to arrange for the relevant prize to be given to each prizewinner within 7 days after the determination of the prizewinners, whether or not the prize winner has claimed the prize.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply if the organisers have obtained official approval to act otherwise than in accordance with it.

### **Division 3      Miscellaneous**

#### **102      Maximum cost of telephone call**

- (1) For the purposes of section 4F (2) (h) of the Act, the cost of a telephone call may not exceed \$0.50, plus the amount of any GST payable in respect of the call.
- (2) In this clause:  
**GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

#### **103      Information to be made available to lottery participants**

- (1) The organisers of a progressive lottery must use their best endeavours to ensure that the following information is made available to participants in the lottery:
- (a) the rules under which persons may participate in the lottery,
  - (b) the price to be paid for the right to participate in the lottery,
  - (c) if the lottery is conducted by, or on behalf of, an organisation not formed for private gain, the name of that organisation,
  - (d) the closing date and time for receipt of entries in the lottery,
  - (e) in the case of a tipping competition, the closing dates and times for receipt of predictions,
  - (f) the name, address and telephone number of the organiser of the lottery.

Maximum penalty: 20 penalty units.

- (2) It is sufficient compliance with the requirements of subclause (1) if the information is printed on the ticket.

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#### **104 Formulation and display of rules**

- (1) The organisers of a progressive lottery must formulate rules under which a person may participate in the lottery. The rules must make provision for the following matters:
- (a) the conditions of entry (including the minimum age of participants),
  - (b) the charge to be made for participating in the lottery and the method, if any, for discounting the charge,
  - (c) the manner in which any prizes are to be calculated, determined and awarded,
  - (d) the manner in which participants are required to enter and participate in the lottery,
  - (e) the closing date and time for receipt of entries in the lottery,
  - (f) in the case of a tipping competition, the closing dates and times for receipt of predictions,
  - (g) the place, time and date of the draw or draws or, in the case of a tipping competition, of the determination of the result or results,
  - (h) the method for claiming prizes (including the course of action to be adopted in the case of unclaimed prizes),
  - (i) the manner in which prize winners are to be notified,
  - (j) in the case of a tipping competition, details of what is to happen if 2 or more persons accumulate the same number of points that, under the rules, entitle the person to a prize,
  - (k) the manner in which disputes concerning the conduct of a lottery or the claiming of a prize are to be resolved.

Maximum penalty: 20 penalty units.

- (2) The rules as to the closing time for receipt of entries in the lottery must provide for a closing time that is before the first draw, or determination of results, in the progressive lottery, unless official approval to provide otherwise is obtained.
- (3) Nothing in subclause (2) prevents the rules of a tipping competition from providing for later times for the receipt of predictions.
- (4) The rules must be displayed prominently at the place where the lottery is being conducted.
- (5) The rules must be consistent with the provisions of the Act and this Regulation.

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**105 Limits on rights to purchase tickets**

The organisers of a progressive lottery must not sell tickets in a progressive lottery after the closing time for receipt of entries in the lottery or, in the case of a tipping competition, after the closing time for entry in the competition.

Maximum penalty: 20 penalty units.

**106 Tickets to be kept safe**

The organisers of a progressive lottery are to keep all returned tickets safe until the draw has taken place or, in the case of a tipping competition, results have been determined.

Maximum penalty: 20 penalty units.

**107 Attendance at draw**

- (1) This clause applies to the conduct of a draw for a progressive lottery (other than a tipping competition).
- (2) The draw must be conducted in a place at which the public may attend.
- (3) Any person who wishes to attend the draw may do so.
- (4) The organisers must not impose, as a condition of an entitlement to a prize, a requirement that the holder of a prize-winning ticket be present at the draw.
- (5) The organisers of the lottery must use their best endeavours to ensure compliance with this clause.

Maximum penalty: 20 penalty units.

**108 Conduct of draw**

- (1) The organisers of a progressive lottery must use their best endeavours to ensure that any draw for prizes in the lottery takes place:
  - (a) in accordance with the rules and the information provided to the purchasers of the tickets, or
  - (b) if a change to the place, date or time of the draw is advertised or communicated to the participants, as advertised or communicated.

Maximum penalty: 20 penalty units.

- (2) The organisers of a progressive lottery must include all tickets sold in the progressive lottery in a draw for prizes, irrespective of how many times a participant has won.

Maximum penalty: 20 penalty units.

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Part 8 Not-for-profit promotional raffles conducted by registered clubs

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## **Part 8 Not-for-profit promotional raffles conducted by registered clubs**

### **Division 1 Preliminary**

#### **109 Application**

- (1) This Part applies to not-for-profit promotional raffles conducted by a registered club under section 4C of the Act.
- (2) For the purposes of the definition of *Lottery* in section 4 (1) of the Act, a not-for-profit promotional raffle conducted in the premises of a registered club is prescribed as a game or method of disposing of prizes that is not a lottery within the meaning of that section.

#### **110 Definitions**

- (1) In this Part:
  - not-for-profit promotional raffle* means a raffle conducted by a registered club:
    - (a) for the purpose of attracting patronage to the club's facilities, and
    - (b) the profits of which are wholly or substantially used to meet the cost of prizes in such raffles.
  - rules* means the rules formulated under clause 111.
  - session* of raffles means a number of raffles held in succession on the same occasion at the same place.
  - ticket* includes a right to participate in a not-for-profit promotional raffle.
- (2) In this Part, a reference to a not-for-profit promotional raffle conducted by a registered club includes a reference to a not-for-profit promotional raffle conducted under the authority of a registered club.

### **Division 2 Requirements when conducting not-for-profit promotional raffles**

#### **111 Formulation and display of rules**

- (1) A registered club that intends to conduct a not-for-profit promotional raffle must formulate rules in accordance with this clause under which a person may participate in the raffle.

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Not-for-profit promotional raffles conducted by registered clubs

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- (2) The rules must make provision for the following:
- (a) the conditions of entry (including the minimum age of the participants),
  - (b) the charge, if any, to be made for participating in the raffle and the method, if any, for discounting the charge,
  - (c) the manner in which any prizes are to be calculated, determined and awarded,
  - (d) the place, time and date of the raffle,
  - (e) the manner in which prizewinners are to be notified under clause 118,
  - (f) the method for claiming prizes under clause 118,
  - (g) the manner in which disputes concerning the conduct of the raffle or the claiming of the prizes are to be resolved,
  - (h) that persons conducting or assisting in the conduct of the raffle cannot enter the raffle.
- (3) The rules must be displayed prominently at the place where the raffle is being conducted.
- (4) The rules must be consistent with the provisions of the Act and this Regulation.

#### **112 Information to be made available to participants**

- (1) A registered club that conducts a not-for-profit promotional raffle or a session of raffles must use its best endeavours to ensure the following information is made available to participants:
- (a) the cost of the tickets,
  - (b) details of the prizes and their value,
  - (c) the rules.
- (2) A registered club that conducts a not-for-profit promotional raffle may change the place, date and time of the draw if notice of the change is prominently displayed for at least 24 hours immediately before the new date and time of the draw.
- (3) A registered club that conducts a not-for-profit promotional raffle must use its best endeavours to ensure that any draw takes place in accordance with the information provided to the participants.
- (4) Nothing in this clause limits any requirements arising under the *Registered Clubs Act 1976*.



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Part 8 Not-for-profit promotional raffles conducted by registered clubs

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**113 Sale and distribution of tickets**

Tickets for entry into a not-for-profit promotional raffle:

- (a) are to be distributed only within the premises of the registered club that conducts the raffle, and
- (b) are to be available only to members of the registered club and their guests.

**114 Maximum charge for entry**

For the purposes of section 4C (3) (d) of the Act, any charge or consideration for participating in a not-for-profit promotional raffle must not exceed \$5 for a ticket.

**115 Conduct of raffle**

- (1) A not-for-profit promotional raffle must not take place unless it is conducted:
  - (a) within the premises of a registered club and in an area at which the members may attend, and
  - (b) in the presence of and under the supervision of 2 or more persons engaged in the conduct of the raffle or the management of the registered club.
- (2) If more than one prize is offered in a not-for-profit promotional raffle:
  - (a) the major prize must be drawn first and the other prizes must be then drawn in descending order of number and value, or
  - (b) if the rules describe a different method of drawing prizes, in the manner described in the rules.

**116 Number and duration of sessions**

- (1) A registered club must not conduct more than 7 not-for-profit promotional raffle sessions per week.
- (2) Any such session must not exceed 3 hours in duration.

**117 Value of prizes**

- (1) For the purposes of section 4C (3) (b) of the Act, the prescribed amount is \$500.
- (2) The value of any prize in a not-for-profit promotional raffle must not exceed \$100.
- (3) Despite subclauses (1) and (2), a single major prize of a value greater than \$100 may be offered during a session of not-for-profit promotional raffles, if the value of the prize does not exceed \$300.

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Clause 118

Not-for-profit promotional raffles conducted by registered clubs

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- (4) Despite subclauses (1)–(3), a single bonus prize may be offered at the end of a session of not-for-profit promotional raffles, if the value of the prize does not exceed \$50.
- (5) In this clause, *bonus prize* means a prize that is awarded at the end of a session of not-for-profit promotional raffles and that is linked to a clean-up scheme that involves:
  - (a) participants recording their name on the back of used tickets which are placed into a receptacle, and
  - (b) a ticket being drawn from the receptacle to determine the winner of the prize.

#### **118 Notification of results and claiming prizes**

- (1) A registered club that conducts a not-for-profit promotional raffle must ensure that an announcement of the result of a draw occurs immediately after the draw takes place.
- (2) If the winner of a prize does not claim the prize within a reasonable time after the result of the draw is announced, the result must be announced again at least 3 more times (if the prize is not claimed before then).
- (3) If the winner of a prize does not claim the prize within a reasonable time after the result of the draw is announced for the fourth time, a redraw for the prize may take place.
- (4) Any announcement required under this clause is to be made to the participants present at the draw and throughout the registered club by use of the club's public address system or closed circuit television.

#### **119 Conduct of other lotteries in conjunction with not-for-profit promotional raffle**

- (1) During a session of not-for-profit promotional raffles the following lotteries and games of chance may also be conducted in conjunction with that session:
  - (a) one draw lottery may be conducted subject to compliance with section 4 of the Act and this Regulation,
  - (b) a lottery or game of chance for the promotion of trade may be conducted subject to compliance with section 4B of the Act, if the right of entry into that lottery or game of chance is not based predominantly on a person's participation in a not-for-profit promotional raffle or a session of such raffles.
- (2) Despite clause 50 (1), when a draw lottery is conducted in conjunction with a session of not-for-profit promotional raffles, for the purposes of section 4 (3) (a) of the Act the prescribed amount for a prize is \$5,000.

Clause 120 Lotteries and Art Unions Regulation 2007

Part 9 Club bingo in registered clubs

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## Part 9 Club bingo in registered clubs

### Division 1 Preliminary

#### 120 Application

This Part applies to games of club bingo conducted by a registered club under section 4C of the Act.

#### 121 Definitions

(1) In this Part:

*club bingo* means a game of bingo conducted by a registered club and includes the game commonly known as housie and any similar game.

*rules* means the rules formulated under clause 122.

*session* of club bingo means a number of games of club bingo played in succession on the same occasion at the same place.

*ticket* includes a right to participate in a game of club bingo.

(2) In this Part, a reference to a game of club bingo conducted by a registered club includes a reference to a game of club bingo conducted under the authority of a registered club.

### Division 2 Requirements when conducting club bingo

#### 122 Formulation and display of rules

(1) A registered club that intends to conduct a game of club bingo must formulate rules in accordance with this clause under which a person may participate in the game.

(2) The rules must make provision for the following:

- (a) the conditions of entry (including the minimum age of the participants),
- (b) the charge, if any, to be made for participating in the game and the method, if any, for discounting the charge,
- (c) the manner in which any prizes are to be calculated, determined and awarded,
- (d) the place, time and date of the game,
- (e) the manner in which prizewinners are to be notified,
- (f) the method for claiming prizes (including the course of action to be adopted if a prize remains unclaimed),
- (g) the manner in which disputes concerning the conduct of the game or the claiming of the prizes are to be resolved,

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Clause 123

Club bingo in registered clubs

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- (h) that persons conducting or assisting in the conduct of the game cannot participate as a player,
  - (i) a description of the particular arrangement of numbers and symbols that are required to be covered in order to win the game,
  - (j) the course of action to be adopted by the organisers of the game if an incorrect call is made by the caller,
  - (k) the manner in which numbers or symbols appearing in a winning ticket are to be verified by an independent person and called back to the participants of the game.
- (3) The rules must be displayed prominently at the place where the game is being conducted.
  - (4) The rules must be consistent with the provisions of the Act and this Regulation.

**123 Information to be made available to participants**

- (1) A registered club that conducts a game or session of club bingo must use its best endeavours to ensure the following information is made available to participants:
  - (a) the cost of the tickets,
  - (b) details of the prizes and their value,
  - (c) the rules.
- (2) A registered club that conducts a game of club bingo must use its best endeavours to ensure that the game takes place in accordance with the information provided to the participants.
- (3) Nothing in this clause limits any requirements arising under the *Registered Clubs Act 1976*.

**124 Sale and distribution of tickets**

Tickets for entry into a game of club bingo:

- (a) are to be distributed only within the premises of the registered club that is conducting the game, and
- (b) are to be available only to members of the registered club and their guests.

**125 Maximum charge for entry**

For the purposes of section 4C (3) (d) of the Act, any charge or consideration to participate in a game of club bingo must not exceed \$0.05 for each ticket.

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Part 9 Club bingo in registered clubs

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**126 Conduct of game**

- (1) A game of club bingo must not take place unless:
  - (a) it is conducted within the premises of a registered club and in an area which the members may attend, and
  - (b) it is conducted in the presence of and under the supervision of 2 or more persons engaged in the conduct of the game or the management of the registered club, and
  - (c) a description of the particular arrangement of numbers and symbols that are required to be covered in order to win the game has been announced in such a way that it can be heard by all participants present at the game.
- (2) A game of club bingo cannot be advertised or conducted in aid of a charitable organisation.
- (3) No person conducting or assisting in the conduct of club bingo is to participate as a player.

**127 Club bingo not to be conducted on weekend**

A registered club must not conduct a game of club bingo between 6 pm on a Friday and midnight on the following Sunday.

**128 Value of prizes in club bingo**

- (1) For the purposes of section 4C (3) (b) of the Act, the prescribed amount is \$50.
- (2) The value of any prize in a game of club bingo must not exceed \$30.
- (3) Despite subclauses (1) and (2), a single bonus prize may be offered at the end of a session of club bingo, if the value of the prize does not exceed \$50.
- (4) No prize in club bingo can accumulate from game to game or from session to session.
- (5) In the event of more than one winner in a game of club bingo, the prize is to be shared equally between the winners.
- (6) If this is impractical the prize must be awarded to one of the prizewinners by drawing lots.
- (7) In this clause, *bonus prize* means a prize that is awarded at the end of a club bingo session and that is linked to a clean-up scheme that involves:
  - (a) participants recording their name on the back of used tickets which are placed into a receptacle, and
  - (b) a ticket being drawn from the receptacle to determine the winner of the prize.

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Club bingo in registered clubs

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**129 Notification of results of draw**

- (1) A registered club that conducts a game of club bingo must ensure that all numbers drawn are announced in such a way that they can be heard by all participants present at a game.
- (2) At the time a winner of a game of club bingo is determined, the numbers appearing on the winning club bingo ticket are to be verified by the person conducting the game in the presence of at least one independent person.

**130 Conduct of other lotteries in conjunction with club bingo**

- (1) During a session of club bingo the following lotteries and games of chance may also be conducted in conjunction with that session:
  - (a) one draw lottery may be conducted subject to compliance with section 4 of the Act and this Regulation,
  - (b) a lottery or game of chance for the promotion of trade may be conducted subject to compliance with section 4B of the Act, provided the right of entry into that lottery or game of chance is not based predominantly on a person's participation in a game or session of club bingo.
- (2) Despite clause 50 (1), when a draw lottery is conducted in conjunction with a session of club bingo, for the purposes of section 4 (3) (a) of the Act the prescribed amount for a prize is \$5,000.

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Part 10 Other lotteries and games of chance

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## **Part 10 Other lotteries and games of chance**

### **Division 1 Games of chance conducted by charities**

#### **131 Maximum value of prizes**

- (1) For the purposes of section 4A (3) (b) of the Act, the prescribed amount is \$4,000.
- (2) For the purposes of section 4A (3) (e) of the Act, the prescribed amount of money that a prize must not exceed is \$4,000.

#### **132 Money component of travel prizes**

For the purposes of section 4A (3) (e1) of the Act, the money component of a prize that is offered in conjunction with tickets for tours or journeys must not exceed 20% of the total value of the prize.

#### **133 Proceeds to be devoted to fundraising object**

For the purposes of section 4A (3) (g) of the Act, the following proportions are prescribed:

- (a) in the case of games of chance known as “Housie”—12.5% of the gross proceeds of any such game,
- (b) in the case of games of chance conducted by the St Patrick’s Club Broken Hill Inc. at any Games Night described in the permit issued by the Minister for the event concerned—12.5% of the gross proceeds of any such game,
- (c) in the case of other games of chance—40% of the gross proceeds of any such game.

#### **134 Application for reduction in percentage of takings to be paid to organisation**

An application under section 4A (6) of the Act is to be made to the Minister in writing by the organisers of the game of chance and is to specify the circumstances of an unusual nature which arose in connection with the conduct of the game of chance.

### **Division 2 Lotteries and games of chance conducted for promotion of trade**

#### **135 Application fee**

- (1) An application for a permit under section 4B of the Act to conduct a lottery or game of chance for trade promotion must be accompanied by the relevant fee set out in Schedule 1.

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- (2) An application for an amendment to a permit issued under section 4B of the Act must be accompanied by:
  - (a) \$50, and
  - (b) if the amendment increases the total prize value of the lottery or game of chance concerned, the difference (if any) between the application fee already paid for the permit and the application fee that applies in relation to a lottery or game of chance with that higher total prize value.
- (3) This clause and Schedule 1 have effect despite section 13 (2) of the *Licensing and Registration (Uniform Procedures) Act 2002*.

**136 Exemption from record-keeping requirements**

For the purposes of section 17B (1) of the Act, a person or organisation that conducts or has conducted a lottery or game of chance for trade promotion is exempt from the operation of section 17B of the Act.

**Division 3 Games of housie**

**137 Maximum charge for participating**

For the purposes of section 4E (2) (b) of the Act, a charge may be made for each ticket or card conferring the right to participate in a game of housie so long as the charge does not exceed \$0.40.

**138 Maximum amount or value of prizes**

For the purposes of section 4E (2) (e) of the Act, the prescribed amount is \$30.

**139 Maximum amount or value of jackpot prizes**

For the purposes of section 4E (2) (f) of the Act, the prescribed amount is \$150.

**140 Formulation and display of house rules**

- (1) A person or organisation that intends to conduct a game of housie as authorised by section 4E of the Act must formulate rules under which a person may participate in the game. The rules must include provision for the following matters:
  - (a) the conditions of entry into the game (including the minimum age of participants),
  - (b) the charge to be made for participating in the game and the method, if any, for discounting the charge,
  - (c) the manner in which any prizes, including jackpot prizes, are to be calculated, determined and awarded,



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Part 10 Other lotteries and games of chance

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- (d) a description of the particular arrangement of numbers or symbols that is required to win the game,
  - (e) the course of action to be adopted by the organiser of the game if an incorrect call is made by the caller,
  - (f) the method for claiming prizes (including the course of action to be adopted in the case of unclaimed prizes),
  - (g) the manner in which disputes concerning the conduct of a game or the claiming of a prize are to be resolved,
  - (h) the manner in which numbers or symbols appearing in a winning ticket or card are to be verified by an independent person and called back to the players of the game.
- (2) The rules must be displayed prominently at the place where the game is being conducted.
- (3) The rules must be consistent with the provisions of the Act and this Regulation.

#### **Division 4 Gratuitous lotteries**

##### **141 Definition**

In this Division:

*gratuitous lottery* has the same meaning as it has in section 4G of the Act.

##### **142 Maximum value of prizes**

For the purposes of section 4G (2) (d) of the Act, the prescribed amount that the total value of prizes in a gratuitous lottery must not exceed is \$10,000.

##### **143 Exemption from record-keeping requirements**

For the purposes of section 17B (1) of the Act, a person or organisation that conducts or has conducted a gratuitous lottery is exempt from the operation of section 17B of the Act.

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## **Part 11 Keeping of records**

### **Division 1 Lotteries generally**

#### **144 Application**

This Division applies to a person or organisation that:

- (a) conducts or has conducted a lottery (other than a mini-numbers lottery) under section 4 of the Act, and
- (b) is required to keep, in accordance with section 17B of the Act, records of income and expenditure in relation to each such lottery.

#### **145 Records for lotteries**

- (1) For the purposes of section 17B (2) (b) of the Act, the following particulars must be included in the records of income and expenditure required to be kept by a person or organisation that conducts or has conducted a lottery:
  - (a) the total amount of money received from the sale of tickets in the lottery (or, if the lottery is conducted by means of no-draw lottery cards, the total amount of money received from the sale of rights to participate in the lottery),
  - (b) the total value of the prizes in the lottery.
- (2) In the case of a draw lottery in which the total value of the prizes is more than \$5,000, the following particulars must also be included in the records of income and expenditure:
  - (a) the number of draw lottery tickets produced or obtained for the lottery, together with their serial numbers,
  - (b) the number of draw lottery tickets sold or distributed for sale, together with their serial numbers,
  - (c) the name and address of each agent of the person or organisation to which draw lottery tickets have been distributed, together with the number of tickets distributed and the serial numbers of those tickets,
  - (d) the names and addresses of all persons who have bought draw lottery tickets (as shown on the relevant ticket-butts or corresponding computer records),
  - (e) the names and addresses of all prizewinners, together with details of their prizes,
  - (f) the number of draw lottery tickets unsold and their serial numbers.

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Part 11 Keeping of records

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- (3) In the case of a no-draw lottery, the following particulars must also be included in the records of income and expenditure:
- (a) the number of no-draw lottery tickets or no-draw lottery cards produced or obtained for the lottery, together with the relevant serial numbers and the relevant unique identifying series number or symbols,
  - (b) the number of no-draw lottery tickets or no-draw lottery cards distributed and the total number of lottery tickets or rights to participate in the lottery that were sold, together with the relevant serial numbers and the relevant unique identifying series number or symbols,
  - (c) the name and address of each agent of the person or organisation to whom or to which no-draw lottery tickets or no-draw lottery cards have been distributed, together with the number of tickets or cards issued and the relevant serial numbers and the relevant unique identifying series number or symbols, the names and addresses of all prizewinners, together with details of their prizes,
  - (d) the number of tickets or rights to participate in the lottery remaining unsold, and the serial numbers of those tickets or the relevant no-draw lottery cards.
- (4) In the case of records comprising ticket-butts or corresponding computer-generated documents in relation to a lottery, the prescribed period for the purposes of section 17B (2) (c) of the Act is at least 3 months after the date the prizewinner or prizewinners are determined.

## **Division 2 Mini-numbers lotteries**

### **146 Application**

This Division applies to a person or organisation that conducts or has conducted a mini-numbers lottery under section 4 of the Act.

### **147 Records for mini-numbers lotteries**

The following particulars must, in accordance with section 17B (2) (b) of the Act, be included in the records of income and expenditure to be kept in relation to a mini-numbers lottery:

- (a) the total amount of money received from the sale of mini-number tickets relating to the lottery,
- (b) the amount of the prize pool,
- (c) any deductions from the prize pool, documented by receipts,
- (d) the distribution of proceeds from the lottery, itemised as to payee and amount and date of payment,

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- (e) the number of tickets produced for the lottery, together with the serial number of the series to which they belong and their individual numbers or symbols,
  - (f) the number of tickets distributed for sale, together with their individual numbers or symbols,
  - (g) the name and address of the authorised selling agent, together with the number of tickets distributed and the individual numbers or symbols of those tickets,
  - (h) the number of tickets unsold, and their individual numbers or symbols,
  - (i) the number of tickets cancelled, and their individual numbers or symbols,
  - (j) the names and addresses of all prizewinners in the lottery together with details of their prizes.

### **Division 3 Sweeps and calcuttas**

#### **148 Application**

This Division applies to a person or organisation that:

- (a) conducts or has conducted a game of chance under section 4D of the Act, and
- (b) is required to keep, in accordance with section 17B of the Act, records of income and expenditure in relation to each such game of chance.

#### **149 Exemption from record-keeping requirement**

For the purposes of section 17B (1) of the Act, a person or organisation that conducts or has conducted a game of chance under section 4D of the Act with ticket sales to the value of up to \$5,000 is exempt from the operation of section 17B.

#### **150 Records for sweeps and calcuttas**

- (1) For the purposes of section 17B (2) (b) of the Act, the following particulars must be included in the records of income and expenditure to be kept by a person or organisation to which this Division applies that conducts or has conducted a sweep or calcutta under section 4D of the Act with ticket sales to the value of \$5,000 or more:
  - (a) the gross proceeds from ticket sales and, in the case of a calcutta, the gross proceeds from the auction,

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- (b) the total prize pool,
  - (c) any deductions from gross proceeds, documented by receipts and invoices,
  - (d) the distribution of any money invested, itemised as to payee, amount and date of payment,
  - (e) the names and addresses of all persons successful in the draw and, in the case of a calcutta, the names and addresses of all persons who purchased a participant in the calcutta at the auction,
  - (f) the names and addresses of all prizewinners, together with details of their prizes,
  - (g) details of all ticket-butts, and the number of unsold tickets together with the serial numbers of those tickets,
  - (h) if the sweep or calcutta was conducted on behalf of a prescribed organisation within the meaning of section 4D of the Act—the total amount given to the prescribed organisation, and the details of any receipts from that organisation.
- (2) For the purposes of section 17B (2) (c) of the Act, the prescribed period for keeping records in relation to a sweep or calcutta is at least 3 months after the conduct of the sweep or calcutta.
- (3) However, if the sweep or calcutta was conducted on behalf of a prescribed organisation within the meaning of section 4D of the Act, the records are to be kept by that organisation for the period specified in section 17B (2) (c) of the Act.

#### **Division 4 Lotteries conducted by art unions**

##### **151 Application**

This Division applies to lotteries conducted by an art union under section 5 of the Act.

##### **152 Records for lotteries**

- (1) The following particulars must, in accordance with section 17B (2) (b) of the Act, be included in the records of income and expenditure to be kept in relation to a lottery:
- (a) the total amount of money received from the sale of lottery tickets,
  - (b) the total value of the prizes in the lottery,
  - (c) the number of lottery tickets printed, obtained or generated for the lottery, together with their serial numbers,

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- (d) the number of lottery tickets sold or distributed for sale, together with their serial numbers,
  - (e) the name and address of each person to whom lottery tickets have been distributed for sale, together with the number of tickets distributed and the serial numbers of those tickets,
  - (f) the names and addresses of all persons who have applied to the art union for lottery tickets,
  - (g) the names and addresses of all persons who have bought lottery tickets (as shown on the relevant ticket-butts or computer records),
  - (h) the names and addresses of all prizewinners, together with details of their prizes,
  - (i) the number of lottery tickets unsold, and their serial numbers,
  - (j) details of all donations and payments received by the art union,
  - (k) a statement of income and expenditure,
  - (l) a balance sheet.
- (2) In the case of records comprising ticket-butts, drawing docketts or corresponding computer-generated documents, the prescribed period for the purposes of section 17B (2) (c) of the Act is at least 3 months after the date the prizewinner or prizewinners are determined.

### 153 Financial return

- (1) The organisers of a lottery must, for the purpose of inspection, lodge with the Minister a statement of income and expenditure, a balance sheet and a statutory declaration within 2 months after the draw.  
Maximum penalty: 20 penalty units.
- (2) The statement of income and expenditure, balance sheet and the statutory declaration must be in a form approved by the Minister.
- (3) The statement of income and expenditure and balance sheet must be audited by:
  - (a) a person qualified to audit accounts for the purposes of the *Corporations Act 2001* of the Commonwealth, or
  - (b) a person having other qualifications or experience approved by the Minister.
- (4) The auditor must report on:
  - (a) whether the statement of income and expenditure and balance sheet show a true and fair view of the financial matters of the lottery to which they relate, and

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- (b) whether the accounts and associated records have been kept properly in accordance with the Act and this Regulation.
  - (5) The statement of income and expenditure must be accompanied by a receipt from the benefiting organisation showing the amount of money it received from the proceeds of the lottery.

## **Division 5 Games of housie**

### **154 Application**

This Division applies to a person or organisation that conducts or has conducted a game of housie as authorised by section 4E of the Act.

### **155 Exemption from record-keeping requirements**

- (1) For the purposes of section 17B (1) of the Act, a person or organisation that conducts or has conducted a game of housie as authorised by section 4E of the Act is exempt from the operation of section 17B of the Act if:
  - (a) no charge is made for the right to participate in the game, or
  - (b) the gross proceeds of the game, less costs and expenses properly incurred in connection with the conduct of the game, are wholly applied towards prizes in the game or are otherwise returned to the players of the game in accordance with the rules of the game.
- (2) However, subclause (1) does not operate to exempt a person or organisation if the Minister notifies the person or organisation in writing that records are required to be kept under section 17B.

### **156 Records for games of housie**

- (1) For the purposes of section 17B (2) (b) of the Act, the following particulars must be included in the records of income and expenditure required to be kept by a person or organisation that conducts or has conducted a game of housie as authorised by section 4E of the Act:
  - (a) the gross proceeds of the game,
  - (b) details of any prizes,
  - (c) any costs and expenses (itemised as to payee, amount and date of payment, and documented by receipts and invoices),
  - (d) if the game is conducted on behalf of an organisation not formed or conducted for private gain—the total amount of the proceeds of the game paid to that organisation, and the details of any receipts from that organisation in respect of that amount.
- (2) If a person or organisation conducts or has conducted a session of games of housie as authorised by section 4E of the Act, the records of income

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and expenditure required to be kept under section 17B of the Act (including the particulars referred to in subclause (1)) may relate to the session of games rather than to each of the games that are part of the session.

- (3) For the purposes of subclause (1) (a), if the charge that is made for each ticket or card conferring the right to participate in a game of housie is not more than \$0.05 and the game is conducted on behalf of an organisation not formed or conducted for private gain, the gross proceeds of the game may be calculated by adding together:
- (a) the total value of the prizes awarded in the game, and
  - (b) any costs and expenses properly incurred in connection with the conduct of the game, and
  - (c) the total amount of the proceeds of the game that are paid to that organisation.
- (4) In the case of records comprising unsold tickets or cards, the prescribed period for the purposes of section 17B (2) (c) of the Act is:
- (a) for unsold tickets or cards belonging to a series of tickets or cards—at least 3 months after the date that the series of tickets or cards was last used, or
  - (b) for all other unsold tickets or cards—at least 3 months after the conclusion of the game for which the unsold tickets or cards were produced.

## **Division 6 Progressive lotteries**

### **157 Application**

This Division applies to a person or organisation that conducts or has conducted a progressive lottery under section 4F of the Act.

### **158 Exemption from record-keeping requirements**

- (1) For the purposes of section 17B (1) of the Act, a person or organisation that conducts a progressive lottery under section 4F of the Act is exempt from the operation of section 17B of the Act if:
- (a) the total amount of money received from the sale of tickets in the lottery is less than \$5,000, and
  - (b) the gross proceeds of the lottery, less costs and expenses properly incurred in connection with the conduct of the lottery, are wholly applied towards prizes in the game or are otherwise returned to participants in the lottery.



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- (2) However, this clause does not operate to exempt a person or organisation if the Minister notifies the person or organisation in writing that records are required to be kept under section 17B of the Act.
  - (3) In this clause, a reference to a ticket includes a reference to a participatory right.

**159 Records for progressive lotteries**

- (1) For the purposes of section 17B (2) (b) of the Act, the following particulars must be included in the records of income and expenditure required to be kept by a person or organisation that conducts a progressive lottery under section 4F of the Act:
  - (a) the total amount of money received from the sale of tickets in the lottery,
  - (b) details of the prizes in the lottery.
- (2) In the case of a progressive lottery in which the total value of the prizes is more than \$5,000, the following particulars must also be included in the records of income and expenditure:
  - (a) any costs and expenses (itemised as to payee, amount and date of payment, and documented by receipts and invoices),
  - (b) the number of tickets in the progressive lottery available for sale and, if applicable, details of the serial number, unique number or symbol of those tickets,
  - (c) the number of tickets in the progressive lottery not sold and, if applicable, details of the serial number, unique number or symbol of those tickets,
  - (d) the names and addresses of all persons who have bought tickets and, if applicable, details of the serial number, unique number or symbol of those tickets,
  - (e) the names and addresses of all prize winners, together with details of their prizes,
  - (f) if the progressive lottery is conducted on behalf of an organisation not formed or conducted for private gain—the total amount of the proceeds of the lottery paid to that organisation, and the details of any receipts from that organisation in respect of that amount.
- (3) For the purposes of section 17B (2) (c) of the Act, the prescribed period for the keeping of records is at least 3 months after the conduct of the progressive lottery, if the gross proceeds of the lottery, less costs and expenses properly incurred in connection with the conduct of the lottery, are wholly applied towards prizes in the game or are otherwise returned to participants in the lottery.

Lotteries and Art Unions Regulation 2007

Clause 160

Keeping of records

Part 11

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- (4) In this clause, a reference to a ticket includes a reference to a participatory right.

## **Division 7 Games of chance in registered clubs**

### **160 Application**

This Division applies to a person or organisation that conducts a game of chance under section 4C of the Act.

### **161 Records for games of chance in registered clubs**

- (1) For the purposes of section 17B (2) (b) of the Act, the following particulars must be included in the records of income and expenditure required to be kept by a person or organisation that conducts or has conducted a game of chance under section 4C of the Act:
- (a) the gross proceeds of the game,
  - (b) any costs and expenses of the game.
- (2) Records of income and expenditure required to be kept in relation to a game of chance may, if the game of chance is a not-for-profit raffle conducted under Part 8 or a game of club bingo conducted under Part 9, be kept in relation to the session of raffles or games rather than in relation to each raffle or game that was part of the session.
- (3) In the case of records comprising ticket-butts, drawing docketts or corresponding computer-generated documents, the prescribed period for the purposes of section 17B (2) (c) of the Act is at least 3 months after the date the prizewinner or prizewinners are determined.

## Lotteries and Art Unions Regulation 2007

## Schedule 1 Fees

**Schedule 1 Fees**

(Clause 135)

<b>Column 1</b>	<b>Column 2</b>
<b>Nature of application</b>	<b>Fee</b>
Application fee for permit if the total prize value of the proposed lottery or game of chance is \$10,000 or less:	
(a) internet application	\$75
(b) application by other means	\$125
Application fee for permit if the total prize value of the proposed lottery or game of chance exceeds \$10,000 but does not exceed \$50,000:	
(a) internet application	\$300
(b) application by other means	\$350
Application fee for permit if the total prize value of the proposed lottery or game of chance exceeds \$50,000 but does not exceed \$100,000:	
(a) internet application	\$550
(b) application by other means	\$600
Application fee for permit if the total prize value of the proposed lottery or game of chance exceeds \$100,000 but does not exceed \$200,000:	
(a) internet application	\$1,050
(b) application by other means	\$1,100
Application fee for permit if the total prize value of the proposed lottery or game of chance exceeds \$200,000:	
(a) internet application	\$2,050
(b) application by other means	\$2,100



New South Wales

# Passenger Transport Regulation 2007

under the

Passenger Transport Act 1990

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Passenger Transport Act 1990*.

JOHN WATKINS, M.P.,  
Minister for Transport

## Explanatory note

The object of this Regulation is to remake and consolidate, with minor amendments and some new matter, the following Regulations:

- (a) the *Passenger Transport (Bus Services) Regulation 2000*,
- (b) the *Passenger Transport (Ferry Services) Regulation 2000*,
- (c) the *Passenger Transport (General) Regulation 2000*,
- (d) the *Passenger Transport (Private Hire Vehicle Services) Regulation 2001*,
- (e) the *Passenger Transport (Taxi-cab Services) Regulation 2001*.

Each of those Regulations is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The most extensive new matter is contained in Part 13 and arises out of the *Passenger Transport Amendment (Bus Reform) Act 2004 (the amending Act)*. That Act amended the *Passenger Transport Act 1990* to enable the Director-General of the Ministry of Transport (the **Director-General**) to enter into new service contracts for regular bus services in respect of areas currently serviced under certain existing commercial and non-commercial bus service contracts. The new provisions also enable the Director-General to terminate certain existing bus service contracts and to enter into service contracts with new operators.

Clause 39 of Schedule 3 to the *Passenger Transport Act 1990* (which was inserted by the amending Act) enables an existing commercial or non-commercial bus service operator, who wishes to sell or otherwise dispose of an asset used in connection with the provision of the service to a proposed new operator, to apply to the Director-General to make it a condition of the new service contract that the new operator acquire the asset. The Director-General may agree to impose such a condition only after the Director-General has referred the question of

## Passenger Transport Regulation 2007

## Explanatory note

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the valuation of the asset to arbitration. The *Commercial Arbitration Act 1984* applies to any such arbitration with such modifications as may be prescribed by the regulations. Any condition so imposed may only require the asset to be acquired at the valuation determined in the arbitration.

Also new to the regulations is the matter setting the criteria to be met by applicants for authorities to drive buses and tourist service vehicles and applicants for accreditation to operate tourist services. There are currently administrative, rather than legislative, requirements that the relevant criteria be met.

This Regulation makes provision for or with respect to the following:

- (a) accreditation to carry on public passenger services, including the standards applicants for accreditation must meet, the conditions imposed on such accreditations and the other obligations of accredited operators (Part 2),
- (b) authorities to drive public passenger vehicles other than ferries, including the categories of authorities, the criteria applicants for authorities must meet and the issue and use of driver authority cards (Part 3),
- (c) the general obligations of drivers of public passenger vehicles other than ferries (Part 4),
- (d) the conduct of passengers in or on public passenger vehicles (Part 5),
- (e) tickets for use on public passenger vehicles (Part 6),
- (f) additional matters relating to buses, including conditions of the contracts under which bus services are provided and the conduct of school students on buses (Part 7),
- (g) additional matters relating to taxi-cabs, including matters relating to the operators of taxi-cab services, taxi-cab networks and taxi-cabs, the equipment of taxi-cabs, taxi-cabs in the Sydney Airport precinct and taxi-cab hirings (Part 8),
- (h) additional matters relating to private hire vehicles, including matters relating to the design, equipment and fittings of private hire vehicles, private hire vehicles in the Sydney Airport precinct and private hire vehicle hirings (Part 9),
- (i) prescribing the kinds of vehicles (in addition to buses and ferries) that can be used to provide *tourist services* for the purposes of the *Passenger Transport Act 1990 (the Act)* (Part 10),
- (j) additional matters relating to ferries, including matters relating to ferry operators and ferry masters (Part 11),
- (k) the issuing of penalty notices for certain offences (Part 12 and Schedule 3),
- (l) modifications to the application of the *Commercial Arbitration Act 1984* in respect of arbitrations of the valuation of assets used in connection with the provision of certain regular bus services (Part 13),
- (m) miscellaneous matters (Part 14),
- (n) matters of a formal nature (Part 1).

This Regulation refers to the Australian/New Zealand Standard called AS/NZS 1754:2004 *Child restraint systems for use in motor vehicles*.

This Regulation is made under the *Passenger Transport Act 1990*, including section 63 (the general regulation-making power) and the other sections referred to in the Regulation.

Passenger Transport Regulation 2007

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Clause 1	Passenger Transport Regulation 2007
Part 1	Preliminary

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## Passenger Transport Regulation 2007

under the

Passenger Transport Act 1990

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Passenger Transport Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation remakes, as a single Regulation, five Regulations under the *Passenger Transport Act 1990*. Those Regulations are repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**accredited operator** means a person accredited under the Act to carry on a public passenger service.

**accredited private hire vehicle operator** has the same meaning as it has in section 36A of the Act.

**accredited taxi-cab operator** has the same meaning as it has in section 29A of the Act.

**approved**, in relation to:

- (a) a driver protection screen, a duress alarm system, a security camera system or a vehicle tracking device—means complying with requirements established for the time being by the Director-General by order published in the Gazette, and
- (b) a network uniform—means a uniform of a design and colour scheme approved by the Director-General in connection with the network.

**area of operation** of a taxi-cab means the area within which the taxi-cab is authorised by its licence to ply and stand for hire.

**assistance animal** means an animal referred to in section 9 (Disability discrimination—guide dogs, hearing assistance dogs and trained

Passenger Transport Regulation 2007

Clause 3

Preliminary

Part 1

animals) of the *Disability Discrimination Act 1992* of the Commonwealth.

**authorised fare**, in relation to the hiring of a taxi-cab, means:

- (a) if the hiring is not a multiple hiring, the amount chargeable for the hiring in accordance with the fare determined (or the arrangement for remuneration approved) by the Director-General under section 60A of the Act (including any applicable night-time surcharge), or
- (b) if the hiring is a multiple hiring—75% of the amount referred to in paragraph (a).

**authorised fare**, in relation to the standards for taxi-meters set out in Schedule 2, means such proportion of the fare determined (or the arrangement for remuneration approved) by the Director-General under section 60A of the Act as consists of:

- (a) the distance rate (including any applicable night-time surcharge), or
  - (b) the waiting time,
- as appropriate, plus flag fall.

**authorised taxi-cab driver** has the same meaning as it has in section 29A of the Act.

**authorised taxi-cab inspection station** means premises:

- (a) that are authorised pursuant to a regulation under the *Road Transport (Vehicle Registration) Act 1997* for use for the purpose of conducting inspections and tests of registrable vehicles, and
- (b) at which there works a motor mechanic who is authorised by the Director-General to inspect, test and assess taxi-cabs for compliance with the *Manual of Inspection Standards for Taxi-Cabs*.

**authorised taxi-cab network provider** has the same meaning as it has in section 29A of the Act.

**bus service** means a public passenger service provided by means of one or more buses.

**bus stop** means a bus stop appointed under clause 104.

**child restraint** means a child restraint that complies with the requirements of the Australian/New Zealand Standard called *Child restraint systems for use in motor vehicles* and numbered AS/NZS 1754:2004, jointly published on 8 November 2004 by Standards Australia and Standards New Zealand, as amended by *Amendment 1* published on 29 December 2004.

**Corporations Act** means the *Corporations Act 2001* of the Commonwealth.



Clause 3	Passenger Transport Regulation 2007
Part 1	Preliminary

**disability** has the same meaning as it has in the *Disability Discrimination Act 1992* of the Commonwealth.

**drive** a vehicle (other than a vessel) includes cause or allow the vehicle to stand.

**driver** means the following:

- (a) in relation to a bus or tourist service vehicle—a holder of an authority under section 11 of the Act,
- (b) in relation to a ferry—the ferry master,
- (c) in relation to a taxi-cab—an authorised taxi-cab driver,
- (d) in relation to a private hire vehicle—an authorised private hire vehicle driver within the meaning of section 36A of the Act.

**driver authority** means an authority to drive a public passenger vehicle, being an authority issued under:

- (a) Division 2 of Part 2 of the Act (in the case of an authority to drive a public passenger vehicle that is not a ferry, taxi-cab or private hire vehicle), or
- (b) Division 5 of Part 4 of the Act (in the case of an authority to drive a taxi-cab), or
- (c) Division 5 of Part 4A of the Act (in the case of an authority to drive a private hire vehicle).

**driver authority card** means an authority card in force under clause 31.

**driver licence** has the same meaning as it has in the *Road Transport (Driver Licensing) Act 1998*.

**driver's worksheet** means a worksheet referred to in clause 134.

**duress alarm system**, in relation to a public passenger vehicle, means a system by which the driver of the vehicle can, in a discreet manner, notify the location of the vehicle to another person or place.

**ferry service** means a public passenger service provided by means of one or more ferries.

**four-wheel drive tourist service** means a public passenger service provided by means of one or more four-wheel drive vehicles.

**four-wheel drive vehicle** means a motor vehicle that:

- (a) complies with the Australian Design Rules under the *Motor Vehicle Standards Act 1989* of the Commonwealth category definition for off-road passenger vehicles (MC vehicles), and
- (b) does not have side-facing seats.

**hirer** means, in relation to a taxi-cab or a private hire vehicle, the person by whom the taxi-cab or a private hire vehicle is hired.

Passenger Transport Regulation 2007

Clause 3

Preliminary

Part 1

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**hiring** of a taxi-cab includes a hiring:

- (a) by means of a taxi-cab booking service, or
- (b) from a taxi zone, or
- (c) by the hailing of a taxi-cab on the street, or
- (d) by means of a telephone call made to the driver of a taxi-cab.

**Manual of Inspection Standards for Taxi-Cabs** means the document of that name as in force on 1 September 2007 and that is available from the Department.

**maxi-cab** means a taxi-cab that has seating accommodation for 6 or more adult persons in addition to the driver.

**motor cycle** means a motor vehicle that complies with the Australian Design Rules vehicle category definition for any of the following:

- (a) motor cycles (LC vehicles),
- (b) motor cycles and side-cars (LD vehicles),
- (c) motor tricycles (LE vehicles).

**motor cycle tourist service** means a public passenger service provided by means of one or more motor cycles.

**multiple hiring**, in relation to a taxi-cab, means a hiring under clause 160.

**night-time surcharge rate**, in relation to the authorised fare for the hiring of a taxi-cab, means the rate, if any, that the Director-General from time to time specifies, by notice published in the Gazette under section 60A of the Act, as the night-time surcharge rate.

**non-compliance label** and **non-compliance notice** mean a label and a notice (respectively) referred to in clause 232.

**operator** means:

- (a) in relation to a bus service, the person who is accredited under Division 1 of Part 2 of the Act to operate the service, and
- (b) in relation to a bus, the person who is accredited under Division 1 of Part 2 of the Act to operate the bus service for which the bus is used, and
- (c) in relation to a tourist service, the person who is accredited under Division 1 of Part 2 of the Act to operate the service, and
- (d) in relation to a tourist service vehicle, the person who is accredited under Division 1 of Part 2 of the Act to operate the tourist service for which the tourist service vehicle is used, and
- (e) in relation to a ferry service, the person who carries on the service, and

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- (f) in relation to a ferry, the person who carries on the ferry service for which the ferry is used, and
- (g) in relation to a private hire vehicle service, the accredited private hire vehicle operator, and
- (h) in relation to a private hire vehicle, the accredited private hire vehicle operator of the private hire vehicle service to which the private hire vehicle belongs, and
- (i) in relation to a taxi-cab service, the accredited taxi-cab operator, and
- (j) in relation to a taxi-cab, the accredited taxi-cab operator of the taxi-cab service to which the taxi-cab belongs.

**private hire vehicle service** has the same meaning as it has in section 36A of the Act.

**prohibited communication device** means any electronic device used, or that is reasonably likely to be used, by the driver of a taxi-cab to transmit or receive (or both) communications concerning the hiring of a taxi-cab, but does not include any of the following devices:

- (a) a receiver referred to in section 31G (b) of the Act,
- (b) a radio or television set that is used solely to receive public radio or television broadcasts,
- (c) a mobile phone,
- (d) any other device approved from time to time by the Director-General by order published in the Gazette.

**qualified accountant** means:

- (a) a member of CPA Australia who holds a Public Practice Certificate issued by CPA Australia, or
- (b) a member of the Institute of Chartered Accountants in Australia who holds a Certificate of Public Practice issued by that Institute, or
- (c) a member of the National Institute of Accountants who holds a Public Practice Certificate issued by that Institute.

**qualified communications engineer** means an engineer holding qualifications that meet the requirements for membership of The Institution of Engineers Australia, as an electrical engineer, electronics engineer or telecommunications engineer.

**receiver** means a receiver referred to in section 31G of the Act.

**registered training organisation** has the same meaning as it has in the *Vocational Education and Training Act 2005*.

**registration number** has the same meaning as it has in the regulations made under the *Road Transport (Vehicle Registration) Act 1997*.

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**regular ferry service** means a ferry service that is a regular passenger service.

**RTA** means the Roads and Traffic Authority of New South Wales constituted under the *Transport Administration Act 1988*.

**security camera system** means a system that records images of persons in or about a bus or a taxi-cab.

**smoke** includes be in possession of a lighted cigarette, cigar, pipe or similar article.

**stand-by taxi-cab** means a motor vehicle that is, in accordance with section 32K of the Act, being operated in place of a taxi-cab that is out of operation while undergoing repair or service.

**Sydney Airport precinct** means the area known as the Sydney Domestic Airport and the Sydney International Airport terminals and operation district, Sydney, bounded by Airport Drive, Qantas Drive, Joyce Drive, General Holmes Drive, Marsh Street and the M5 Motorway.

**taxi-cab booking service** has the same meaning as it has in Part 4 of the Act.

**taxi-cab network** has the same meaning as it has in Part 4 of the Act.

**taxi-cab service** has the same meaning as it has in Part 4 of the Act.

**the Act** means the *Passenger Transport Act 1990*.

**transport district** has the same meaning as it has in the *Transport Administration Act 1988*.

**vehicle tracking device** means a device by which the whereabouts of a taxi-cab can be followed by means of the vehicle tracking system operated by the taxi-cab network to which the taxi-cab is connected.

**Western Division** means the Western Division as defined by the *Crown Lands Consolidation Act 1913* immediately before its repeal (subject to any regulations made under section 4 (3) of the *Crown Lands Act 1989* that affect the boundary between the Western Division and the Eastern and Central Division).

**wheelchair accessible taxi-cab** means a taxi-cab that has wheelchair access.

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

#### 4 Regulation does not apply to conduct of certain ferry services

This Regulation does not apply to the conduct of a road-ferry service that is under the control of a roads authority under the *Roads Act 1993*.

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Part 2	Accreditation to carry on public passenger services

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## Part 2 Accreditation to carry on public passenger services

### Division 1 Preliminary

#### 5 Definition

In this Part, the *relevant service*, in relation to an applicant, an application, an accreditation or an accredited operator, means the public passenger service of the kind in respect of which accreditation is sought or has been obtained.

### Division 2 Applications for accreditation to carry on public passenger services

#### 6 Standards to be met by applicants for accreditation to carry on public passenger services

- (1) An applicant for accreditation under any of the following Divisions of the Act must meet, to the satisfaction of the Director-General, the standards set forth in this Division:
  - (a) Division 1 of Part 2 (concerning accreditation to carry on a bus service, a four-wheel drive tourist service or a motor cycle tourist service),
  - (b) Division 3 of Part 4 (concerning accreditation to carry on a taxi-cab service),
  - (c) Division 3 of Part 4A (concerning accreditation to carry on a private hire vehicle service).

**Note.** Operators of ferry services are not required to be accredited—see section 7 (1) of the Act. See section 15A of the Act for the exclusion of taxi-cabs and private hire vehicles from the operation of section 7.

Clause 202 provides that four-wheel drive tourist service vehicles and motor cycle tourist service vehicles are taken to be public passenger vehicles for the purposes of the Act, and further provides that the provisions of the Act apply to those vehicles.

- (2) If the applicant is a corporation, the directors or managers of the corporation who are nominated as designated directors or managers under section 7, 35 or 41 of the Act (as the case may require) must meet, to the satisfaction of the Director-General, the standards set forth in this Division (other than the standards specifically to be met by corporate applicants).

#### 7 Applicant to be of good repute

- (1) The applicant must be of good repute.

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- (2) Evidence of the applicant's good repute is to be provided in the form of references from 2 persons (being persons, excluding employees of the applicant, of any class approved by the Director-General) who have known the applicant for at least 2 years.

**8 Applicant to be fit and proper person to carry on relevant service**

- (1) The applicant must be a fit and proper person to carry on the relevant service.
- (2) The applicant must declare in writing that the applicant is aware of the following:
- (a) accreditation will be refused if the applicant is disqualified, under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act, from managing corporations,
  - (b) accreditation may be refused if the applicant (or a director or manager of an applicant corporation) has been the subject of proceedings under section 588G (Director's duty to prevent insolvent trading by company) or 592 (Incurring of certain debts; fraudulent conduct) of the Corporations Act,
  - (c) if the applicant:
    - (i) is the director of a company that has been, or is in the course of being, wound up under Part 5.4 (Winding up in insolvency) of the Corporations Act, or
    - (ii) discloses any convictions or charges in accordance with subclause (3),
 the Director-General may, for the purpose of determining the applicant's fitness to be an operator, cause any investigation that the Director-General considers appropriate to be made into the winding up, conviction or charge concerned.
- (3) The applicant must give the Director-General written notice of the following:
- (a) full details of all offences of which the applicant has been convicted (in any jurisdiction) at any time during the 5 years immediately preceding the date of the application,
  - (b) full details of all alleged offences with which the applicant has been charged (in any jurisdiction) but only if, as at the date of the application, proceedings are pending in respect of the charge.
- (4) If there are no convictions or pending proceedings against the applicant, the applicant must give the Director-General a written statement to that effect.

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### **9 Applicant to be competent to carry on relevant service**

- (1) The applicant must demonstrate that the applicant has the necessary knowledge and competence to carry on the relevant service.
- (2) In particular, the applicant must:
  - (a) satisfy the Director-General as to the applicant's knowledge of the following:
    - (i) the relevant provisions of the Act and this Regulation,
    - (ii) other laws relating to traffic,
    - (iii) the relevant provisions of the *Occupational Health and Safety Act 2000*,
    - (iv) if the application is for accreditation to carry on a taxi-cab service—the laws relating to bailment of motor vehicles, and
  - (b) if required to do so by the Director-General, undertake and successfully complete (or pass an examination in respect of) such course relating to the operation of the relevant service as is approved by the Director-General and conducted by a registered training organisation, or a higher education institution approved by the Director-General.

### **10 Applicant to be financially capable of carrying on relevant service**

- (1) The applicant must be financially capable of carrying on the relevant service.
- (2) Evidence of the applicant's financial standing is to be provided in the form of a signed statement from a qualified accountant (other than an employee of the applicant), on the accountant's business letterhead, containing the following:
  - (a) a report on the applicant's financial capacity to carry on the relevant service, with specific reference to the applicant's financial ability to meet the requirements of this Regulation and other relevant laws as to:
    - (i) vehicle maintenance and roadworthiness, and
    - (ii) the safety of drivers, passengers and the public, and
    - (iii) the operation of a business,
  - (b) a statement specifying the number of public passenger vehicles that, in the opinion of the accountant, can be accommodated by the service proposed to be carried on by the applicant,
  - (c) if the applicant is a corporation—a statement of the accountant's opinion as to the solvency and general financial standing of the corporation.

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**11 Applicant to have access to maintenance facilities for vehicles**

- (1) The applicant must have access to adequate maintenance facilities for the vehicles intended to be used to provide the relevant service.
- (2) The applicant must provide the Director-General with full details of the premises at which the vehicles will normally be kept when not in use.

**12 Additional requirement: bus services**

- (1) An applicant for accreditation to carry on a public passenger service by means of one or more buses must also provide the Director-General with a copy of an approval from the relevant council to keep the buses required for the service at the premises specified by the applicant in compliance with clause 11 (2).
- (2) Subclause (1) does not apply in the case of an application for renewal of accreditation by a person who is an accredited service operator on the commencement of this clause.

**13 Fees relating to accreditations to carry on certain public passenger services**

- (1) The fee for the consideration of an application for accreditation to carry on a taxi-cab service (referred to in section 31A (2) of the Act) is \$100.
- (2) The fee for a renewal of an accreditation to carry on a taxi-cab service (referred to in section 31C (2) of the Act) is as follows:
  - (a) if no taxi-cabs are managed by the accredited taxi-cab operator at a date to be determined by the Director-General that occurs during the period during which the accreditation is in force (the *assessment date*)—\$260,
  - (b) if one or more taxi-cabs are managed by the accredited taxi-cab operator at the assessment date—\$5 for each week of the period during which the accreditation to be renewed has been in force, multiplied by the number of taxi-cabs managed at the assessment date.
- (3) An accreditation referred to in subclause (3) can be renewed only if the fee for the renewal is paid before the end of the period during which the accreditation is in force.
- (4) The fee for the consideration of an application for accreditation to carry on a private hire vehicle service (referred to in section 38A (2) of the Act) is \$100.
- (5) The fee for a renewal of an accreditation to carry on a private hire vehicle service (referred to in section 38C (2) of the Act) is \$45.

**Note.** Fees relating to accreditations to carry on public passenger services by means of buses and other vehicles (except for ferries) may be fixed by the



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Director-General by order published in the Gazette: see sections 9A, 15 and 15A of the Act.

### **Division 3      Conditions of accreditation to carry on public passenger services**

#### **14      Conditions of accreditation to carry on relevant service**

- (1) For the purposes of sections 9B (1) (a), 31D (1) (b) and 38D (1) (a) of the Act, compliance with the requirements of this Division is prescribed as a condition to which an accreditation to carry on a relevant service is subject.
- (2) For the purposes of this Division, *relevant service* means a bus service, a four-wheel drive tourist service, a motor cycle tourist service, a taxi-cab service or a private hire vehicle service.

#### **15      Safety of drivers, passengers and the public**

The operator of a relevant service must ensure that:

- (a) the vehicles used to provide the service at all times meet the requirements of the law as to registration and vehicle safety and roadworthiness, and
- (b) each person engaged to drive a vehicle used to provide the service:
  - (i) holds an appropriate driver licence, and
  - (ii) holds an appropriate driver authority.

#### **16      Vehicle maintenance**

- (1) The operator of a relevant service must have, and adhere to, a public passenger vehicle maintenance plan that:
  - (a) is consistent with the maintenance standards of the manufacturer of the vehicles used to provide the service, and
  - (b) specifies the steps taken to ensure that the vehicles are roadworthy, and
  - (c) specifies the way in which the vehicles are maintained, and
  - (d) specifies the way in which any defects are to be recorded and rectified, and
  - (e) is capable of being audited.
- (2) The operator of a relevant service must not carry out maintenance on, or repairs to, a vehicle used to provide the service, and must not permit any other person to do so, unless the person carrying out the maintenance or repairs is licensed under the *Motor Vehicle Repairs Act 1980* to carry out the work concerned.

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- (3) Subclause (2) applies even if the person who is to carry out the work concerned is exempted under section 5 of the *Motor Vehicle Repairs Act 1980* from the operation of all or any of the provisions of that Act.
- (4) However, for the purposes of subclause (2), ***maintenance*** and ***repairs*** do not include the following:
- (a) adding approved oils or other fluids to engines, transmissions, differentials, power steering reservoirs, windscreen washer reservoirs, master cylinders, radiators or batteries,
  - (b) changing engine, transmission and differential oils,
  - (c) changing engine oil filters and fuel filters,
  - (d) carrying out general lubrication,
  - (e) changing spark plugs,
  - (f) changing wheels and tyres,
  - (g) changing light bulbs,
  - (h) replacing seats and floor coverings,
  - (i) replacing external rear vision mirrors.

#### **17 Condition of vehicles**

- (1) The operator of a relevant service must ensure that the interior, exterior and fittings of the vehicles used to provide the service are, at all times during which the vehicles are being used to provide the service, clean and undamaged and (in the case of fittings) duly fitted, securely in place, in good condition and fully operational.
- (2) Without limiting subclause (1), the interior, exterior and fittings of a vehicle include the following:
- (a) the vehicle body and the door panels,
  - (b) the wheels and the bumper bars,
  - (c) the trim,
  - (d) the seats, seat covers and floor covers,
  - (e) the interior lights,
  - (f) any device or equipment that is fitted to the vehicle (whether or not it is required by or under the Act to be fitted),
  - (g) in the case of taxi-cabs and private hire vehicles:
    - (i) where appropriate, the network livery and decals, and
    - (ii) the interior of the boot or load space, and
    - (iii) the window winding mechanisms.

Maximum penalty: 10 penalty units.

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Part 2	Accreditation to carry on public passenger services

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### **18 Changes to information provided**

- (1) The operator of a relevant service must notify the Director-General in writing of any of the following changes:
  - (a) a change of address of the premises from which the service is carried on,
  - (b) a change of address of the premises at which the vehicles used to provide the service are kept.
- (2) The notification is to be given no later than 7 days after the change.

## **Division 4 Other obligations of accredited operators**

### **19 Records relating to operation of public passenger vehicles**

A person who is or has been an accredited operator:

- (a) must keep in the English language any record required to be kept by the person under the Act or this Regulation in a form that is capable of being audited, and
- (b) unless otherwise provided by this Regulation, must retain the record for a period of at least:
  - (i) in the case of a bus service—5 years after the date of the last entry in it, and
  - (ii) in any other case—2 years after the date of the last entry in it, and
- (c) must, on demand by an authorised officer, produce it in written form for inspection, and
- (d) must, if required by the Director-General in writing to do so, deliver it to the Director-General when required.

Maximum penalty: 10 penalty units.

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Clause 20

Accreditation to carry on public passenger services

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## 20 Operator training

- (1) An accredited operator must, whenever reasonably required to do so by the Director-General, undertake and satisfactorily complete (or pass an examination in respect of) such course, or refresher course, relating to the operation of the relevant service as is approved by the Director-General and conducted by a registered training organisation, or a higher education institution approved by the Director-General.  
Maximum penalty: 10 penalty units.
- (2) The Director-General may:
  - (a) suspend an accreditation issued to an accredited operator pending the satisfactory completion of (or the passing of an examination in respect of) such a course, or
  - (b) determine (either generally or in a particular case) that an accreditation issued to an accredited operator will be renewed only on the satisfactory completion of (or on the passing of an examination in respect of) such a course.

## 21 Records of drivers

An accredited operator must keep a record in written or electronic form of the following particulars for each person who drives a vehicle used to provide the relevant service while the vehicle is being used for that purpose:

- (a) the person's full name and residential address,
- (b) the dates and times during which the vehicle was driven by the person,
- (c) the person's driver authority number (that is, the number allocated by the Director-General and displayed on the person's driver authority card) and the date of expiry of the person's driver authority card,
- (d) the person's driver licence number and the date of expiry of the licence.

Maximum penalty: 10 penalty units.

## 22 Vehicle insurance

- (1) An accredited operator (unless otherwise notified in writing by the Director-General) must ensure that there is maintained one or more policies of insurance providing cover of at least \$5,000,000 for each public passenger vehicle used to provide the relevant service against liability in respect of damage to property caused by or arising out of the use of the vehicle.

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Part 2	Accreditation to carry on public passenger services

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- (2) The policies must be issued by a corporation authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business.
- (3) Subclauses (1) and (2) do not apply to an accredited taxi-cab operator or an accredited private hire vehicle operator.  
**Note.** See sections 32G and 39G of the Act for insurance requirements relating to taxi-cabs and private hire vehicles, respectively. See also clause 131 of this Regulation.
- (4) An accredited operator must provide an authorised officer, on request, with evidence that the operator's policies of insurance are current.  
 Maximum penalty: 10 penalty units.

### 23 Evidence of accredited operator's continuing financial capacity

- (1) An accredited operator must, on written request by the Director-General and within the time specified in the request, provide evidence, in the form specified in clause 10 (2), of the operator's continuing financial capacity to carry on the relevant service.  
**Note.** The Director-General may, having regard to the purposes of accreditation, at any time vary, suspend or cancel a person's accreditation—see sections 10, 31F and 38E of the Act.
- (2) The Director-General is not to make a request under this clause unless the Director-General believes on reasonable grounds that the accredited operator may no longer be financially capable of carrying on the relevant service.

### 24 Operators to notify detrimental change in driver's medical condition

If the operator of a public passenger service becomes aware of any apparent change in the physical or mental condition of a driver of a public passenger vehicle operated by the operator that may detrimentally affect the driver's ability to drive public passenger vehicles safely, the operator must furnish the Director-General with written details of the apparent change within 48 hours after becoming aware of it.

Maximum penalty: 10 penalty units.

### 25 Management of public passenger services

An accredited operator must not suffer or permit any person other than:

- (a) a designated director or manager (if the accredited operator is a corporation), or

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- (b) another accredited operator (if the accredited operator is not a corporation),  
to operate, manage, supervise or administer the relevant service (except for, in the case of a corporation, a person appointed under any law to manage the affairs of the corporation).

Maximum penalty: 50 penalty units.

**26 Operator not to permit vehicle subject to non-compliance notice or non-compliance label to be driven**

An accredited operator must not permit a vehicle used to provide the relevant service to be driven if:

- (a) the expiry date or expiry time of a non-compliance notice issued to the operator or a non-compliance label affixed to the vehicle has passed, or
- (b) the operator is aware that a non-compliance label has been unlawfully removed from the vehicle.

Maximum penalty: 10 penalty units.

Clause 27 Passenger Transport Regulation 2007

Part 3 Authorities for drivers of public passenger vehicles

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## Part 3 Authorities for drivers of public passenger vehicles

### 27 Definition

In this Part, *public passenger vehicle* means a public passenger vehicle other than a ferry.

### 28 Categories of driver authorities

(1) The following categories of driver authorities are created under sections 11 (3) and 33 (4) of the Act:

- (a) authorities to drive buses,
- (b) authorities to drive tourist service vehicles (other than buses),
- (c) authorities to drive taxi-cabs in the Metropolitan transport district,
- (d) authorities to drive taxi-cabs in the Newcastle transport district,
- (e) authorities to drive taxi-cabs in the Wollongong transport district,
- (f) authorities to drive taxi-cabs elsewhere than in the transport districts referred to in paragraphs (c), (d) and (e),
- (g) authorities to drive other public passenger vehicles (not being private hire vehicles) of the kind specified in the authority.

**Note.** Section 40 of the Act provides for the issue of driver authorities in respect of private hire vehicles. Section 40 (4) permits the regulations to create categories or grades of such authorities. However, at the commencement of this Regulation, no such categories or grades have been created.

(2) A driver may be issued with an authority which is valid for any one of the above categories or for any combination of them (whether or not in combination with an authority to drive private hire vehicles).

### 29 Criteria for authorisation to drive public passenger vehicles

(1) For the purposes of sections 12 (2), 33B (2) and 40B (2) of the Act, the criteria that an applicant for an authorisation to drive a public passenger vehicle must meet before the application is granted are the criteria set out in subclauses (2)–(4).

(2) The applicant:

- (a) must be at least 20 years of age, and
- (b) must hold a driver licence that is not a learner licence, probationary licence, provisional licence, restricted licence, driver licence receipt or conditional licence (other than a conditional licence the sole condition of which is that the holder must wear corrective lenses at all times while driving), and

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Authorities for drivers of public passenger vehicles

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- (c) must have held an Australian driver licence for a total of at least 12 months in the 2 years immediately preceding the date of the application, and
  - (d) must have passed an examination or assessment, at a level determined by the Director-General, in medical fitness, and
  - (e) must satisfy the Director-General that he or she:
    - (i) may lawfully work in Australia, and
    - (ii) is of good repute and in all other respects a fit and proper person to be the driver of the vehicle concerned, and
    - (iii) has sufficient responsibility to drive the vehicle concerned in accordance with law and custom.
- (3) In the case of an application for authorisation to drive buses, the applicant must also have successfully completed a bus driver training course approved by the Director-General and conducted by a registered training organisation (or must have such competence as a driver of buses as the Director-General considers appropriate).
- (4) In the case of an application for authorisation to drive taxi-cabs, the applicant must also:
- (a) have successfully completed a taxi-cab driver training course approved by the Director-General and conducted by a registered training organisation (or must have such competence as a driver of a taxi-cab as the Director-General considers appropriate), and
  - (b) have passed an examination or assessment, at a level determined by the Director-General, in the following:
    - (i) geographical knowledge of areas in which taxi-cabs ply for hire,
    - (ii) such part or parts of the taxi-cab driver training course referred to in paragraph (a) as may be required by the Director-General (or must have such competence as a driver of a taxi-cab as the Director-General considers appropriate),
    - (iii) knowledge of this Regulation in so far as it relates to taxi-cabs and the driving of taxi-cabs, and
  - (c) have passed an examination or assessment, at a level determined by the Director-General, in both written and oral communication in the English language (or must have such competence in that language as the Director-General considers equivalent to that level).



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Part 3	Authorities for drivers of public passenger vehicles

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(5) In this clause:

*Australian driver licence* means:

- (a) a driver licence, or
- (b) a licence issued under a law in force in a State or internal Territory authorising the holder to drive a motor vehicle on a road or road related area, being a licence that is not a learner licence, probationary licence, provisional licence, restricted licence, driver licence receipt or conditional licence (other than a conditional licence the sole condition of which is that the holder must wear corrective lenses at all times while driving).

**Note.** See clause 237 for the Director-General's power to exempt certain applicants from the requirement that they hold driver licences.

### **30 Fees relating to authorisations to drive certain public passenger vehicles**

#### **(1) Taxi drivers: consideration of application for authorisation**

The fee for the consideration of an application for authorisation to drive taxi-cabs (referred to in section 33A (2) of the Act) is \$100.

#### **(2) Taxi drivers: renewal of authorisation**

The fee for a renewal of an authority to drive taxi-cabs (referred to in section 33C (2) of the Act) is \$120.

#### **(3) Drivers of private hire vehicles: consideration of application for authorisation**

The fee for the consideration of an application for authorisation to drive private hire vehicles (referred to in section 40A (2) of the Act) is \$45.

#### **(4) Drivers of private hire vehicles: renewal of authorisation**

The fee for a renewal of an authority to drive private hire vehicles (referred to in section 40C (2) of the Act) is \$45.

**Note.** Fees relating to authorisations to drive buses and other public passenger vehicles (except for ferries) may be fixed by the Director-General by order published in the Gazette: see sections 11A, 15 and 15A of the Act.

### **31 Driver authority cards**

(1) The Director-General may issue a driver authority card to a person who is authorised to drive a public passenger vehicle.

- (2) A driver authority card must display:
- (a) a photograph of the person, and
  - (b) the number of the authority, and
  - (c) the expiry date for the card.

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Authorities for drivers of public passenger vehicles

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- (3) A driver authority card:
    - (a) may display such additional information or endorsement as the Director-General considers appropriate (either generally or in a particular case), and
    - (b) is to be in a form approved by the Director-General.
  - (4) A driver authority card expires at midnight on the date specified on the card as the expiry date.
  - (5) A person's authority to drive public passenger vehicles and driver authority card do not have any effect, either for the purposes of the Act or for the purposes of this Regulation, while the person's driver licence is cancelled, suspended or expired, or while the person is otherwise disqualified from driving a motor vehicle.

### **32 Misuse of driver authority cards**

A person must not:

- (a) alter or deface any driver authority card, or
- (b) lend or part with any driver authority card, or
- (c) fraudulently obtain a driver authority card, or assist another person to obtain such a card fraudulently, or
- (d) make, supply or use a counterfeit driver authority card.

Maximum penalty: 10 penalty units.

### **33 Replacement of driver authority cards**

- (1) A driver authority card that has been altered or defaced is void and may be returned to the Director-General for replacement.
- (2) On the return of a driver authority card, or on proof to the satisfaction of the Director-General that a driver authority card has been destroyed, stolen or lost, the Director-General may cause a duplicate of it to be issued.
- (3) Before issuing a duplicate driver authority card, the Director-General may require:
  - (a) proof of the identity of the person seeking the duplicate, and
  - (b) a new photo of the person to be supplied for display on the card.
- (4) Any duplicate driver authority card issued under this clause becomes, for the purposes of the Act and this Regulation, the driver authority card in respect of which the duplicate is issued, and the original driver authority card, if it is not already void, becomes void.

Clause 34 Passenger Transport Regulation 2007

Part 4 General obligations of drivers of public passenger vehicles

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## Part 4 General obligations of drivers of public passenger vehicles

**Note.** This Part specifies the obligations that are common to all drivers of public passenger vehicles (other than ferry masters). See also the additional obligations of drivers of buses (Division 3 of Part 7), taxi-cabs (Division 2 of Part 8) and private hire vehicles (Division 2 of Part 9).

### 34 Definition

In this Part, *public passenger vehicle* means a public passenger vehicle other than a ferry.

### 35 Dress and conduct of drivers

The driver of a public passenger vehicle must:

- (a) be clean and tidy and wear clean and tidy clothes (including enclosed shoes) when driving the vehicle for the purpose of providing a public passenger service, and
- (b) behave in an orderly manner and with civility and propriety towards any passenger, intending passenger, driver of another public passenger vehicle or authorised officer, and
- (c) comply with every reasonable requirement of an authorised officer or passenger.

Maximum penalty: 10 penalty units.

### 36 Driver not to smoke, eat or drink in vehicle

- (1) The driver of a public passenger vehicle must not do any of the following:
  - (a) smoke any substance while in the vehicle, whether or not the vehicle is being driven for the purpose of providing a public passenger service,
  - (b) eat or drink in the vehicle while the vehicle is hired or available for hire, or is otherwise in use as a public passenger vehicle.

Maximum penalty: 5 penalty units.

- (2) Nothing in this clause prohibits a driver of a public passenger vehicle from eating or drinking in the vehicle for medical reasons.

### 37 Driver to ensure vehicles are clean

The driver of a public passenger vehicle must ensure that the vehicle is clean and tidy.

Maximum penalty: 10 penalty units (in the case of an offence committed in the Sydney Airport precinct) or 2 penalty units (in any other case).

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General obligations of drivers of public passenger vehicles

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**38 Driver not to interfere with equipment of, or damage, vehicle**

The driver of a public passenger vehicle must not:

- (a) without reasonable excuse, interfere with any equipment attached to, or forming part of, the vehicle, or
- (b) wilfully damage any part of the vehicle.

Maximum penalty: 5 penalty units.

**39 Driver not to drive vehicle subject to non-compliance label**

The driver of a public passenger vehicle must not drive the vehicle if:

- (a) the expiry date or expiry time of a non-compliance label affixed to the vehicle has passed, or
- (b) the driver is aware that a non-compliance label has been unlawfully removed from the vehicle.

Maximum penalty: 10 penalty units.

**40 Driver to move and drive vehicles carefully**

The driver of a public passenger vehicle must not:

- (a) move the vehicle while any door is open, or
- (b) negligently or wilfully move or drive or cause the vehicle to be moved or driven so that any person is subjected to the risk of injury.

Maximum penalty: 5 penalty units.

**41 Carriage of goods and animals**

- (1) The driver of a public passenger vehicle must not permit any person to place or carry in or on the vehicle any article that is of such size or has such dimensions that it cannot be accommodated in or on the vehicle without inconvenience or danger to any other person.

Maximum penalty: 2 penalty units.

- (2) The driver of a public passenger vehicle must not permit any person to place or carry in or on the vehicle any dog, cat, bird or other animal unless it is suitably confined in a box, basket or other container.

Maximum penalty: 2 penalty units.

- (3) Subclause (2) does not apply to an assistance animal or an assistance animal in training.

- (4) The driver of a public passenger vehicle other than a motor cycle must not refuse to carry an assistance animal or an assistance animal in training in or on the vehicle.

Maximum penalty: 10 penalty units.

Clause 42	Passenger Transport Regulation 2007
Part 4	General obligations of drivers of public passenger vehicles

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#### **42 Lost property given to drivers**

A driver of a public passenger vehicle who is given lost property under this Regulation or who finds such property must, within 24 hours after being given or finding the property:

- (a) if the driver is the driver of a taxi-cab that is connected to an authorised taxi-cab network—give the property to the owner of the property or to the authorised taxi-cab network provider of the network to which the driver's taxi-cab is connected, or
- (b) in all other cases—give the property to the owner of the property, to the accredited operator of the public passenger service or to a police officer at a police station.

Maximum penalty: 5 penalty units.

#### **43 Training of drivers**

- (1) The driver of a public passenger vehicle must, whenever reasonably required to do so by the Director-General, undertake and satisfactorily complete (or pass an examination in respect of) any one or more of the following training courses, being a training course approved by the Director-General and conducted by a registered training organisation:
  - (a) a public passenger vehicle driver training course,
  - (b) a public passenger vehicle driver training refresher course,
  - (c) a training course concerning the driving of public passenger vehicles in specified places, or in specified circumstances, or in both (for example, a course concerning the driving of public passenger vehicles in the Kosciuszko National Park during winter).
- (2) The Director-General may:
  - (a) suspend a driver's authorisation to drive public passenger vehicles pending the satisfactory completion of (or the passing of an examination in respect of) such a course, or
  - (b) determine (either generally or in a particular case) that a driver's authorisation to drive public passenger vehicles will be renewed only on the satisfactory completion of (or on the passing of an examination in respect of) such a course.

#### **44 Driver to notify Director-General of alleged offence**

- (1) The driver of a public passenger vehicle must, in accordance with this clause, furnish the Director-General with written details of the following:
  - (a) any alleged offence (other than a parking offence) with which the driver is charged by a police officer,

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General obligations of drivers of public passenger vehicles

Part 4

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- (b) any penalty notice issued to the driver in respect of an alleged offence (other than a parking offence) that relates to the driving of a motor vehicle.

Maximum penalty: 10 penalty units.

- (2) If, on the commencement of this clause:

- (a) proceedings against a driver of a public passenger vehicle in respect of an offence referred to in subclause (1) (a) are pending, or

- (b) a penalty notice of the kind referred to in subclause (1) (b) is in force against a driver of a public passenger vehicle,

the relevant details are to be furnished within 48 hours after that commencement.

- (3) In the case of a charge that is laid by a police officer, or a penalty notice relating to the driving of a motor vehicle that is issued, on or after the commencement of this clause (other than a charge or a penalty notice in respect of a parking offence), the details are to be furnished within 7 days after the laying of the charge or the issue of the notice.

#### **45 Driver to hand over driver licence for inspection**

- (1) The driver of a public passenger vehicle must, at the request of an authorised officer, hand his or her driver licence to the authorised officer for inspection.

Maximum penalty: 5 penalty units.

- (2) In this clause:

*driver* includes a person who:

- (a) is occupying the driver seat of a vehicle that is on a road or road related area, or
- (b) is otherwise apparently in charge of such a vehicle.

#### **46 Driver to hand over driver authority card for inspection**

The driver of a public passenger vehicle must, at the request of an authorised officer, hand the appropriate driver authority card to the officer for inspection.

Maximum penalty: 10 penalty units (in the case of an offence committed by the driver of a bus, taxi-cab or private hire vehicle in the Sydney Airport precinct) or 5 penalty units (in any other case).

Clause 47 Passenger Transport Regulation 2007

Part 4 General obligations of drivers of public passenger vehicles

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**47 Medical condition of drivers**

- (1) On attaining the age of 60 years and from then on at intervals of 12 months, the driver of a public passenger vehicle must, at the driver's own expense, furnish the Director-General with a certificate from a medical practitioner containing the medical practitioner's assessment, in accordance with any requirements of the Director-General, of the driver's medical condition.

Maximum penalty: 10 penalty units.

- (2) The Director-General may, by notice in writing, require a driver of a public passenger vehicle to attend a medical practitioner specified in the notice, by a date specified in the notice, for the purposes of undergoing a medical fitness examination.

- (3) The driver of a public passenger vehicle must (in so far as the driver is capable of doing so) furnish the Director-General, within 48 hours after any change in the physical or mental condition of the driver of which the driver is aware that may affect the driver's ability to drive public passenger vehicles safely, with written details of the change.

Maximum penalty: 10 penalty units.

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Conduct of passengers in or on public passenger vehicles

Part 5

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## **Part 5 Conduct of passengers in or on public passenger vehicles**

**Note.** Division 2 of this Part deals with the conduct of passengers on all public passenger vehicles. Division 3 contains additional provisions relating to conduct on buses and ferries. See also the special provisions relating to the conduct of school students on buses (Division 4 of Part 7).

### **Division 1 Preliminary**

#### **48 References to passengers**

In this Part, a reference to a passenger is taken to include a reference to an intending passenger.

### **Division 2 Conduct generally**

#### **49 No offensive behaviour or language**

A passenger must not, in or on a public passenger vehicle:

- (a) behave in an offensive manner, or
- (b) use any offensive language, or
- (c) wilfully interfere with the comfort or safety of other persons, or
- (d) put his or her feet on a seat, or
- (e) spit.

Maximum penalty: 10 penalty units.

#### **50 No smoking**

A passenger must not smoke any substance in or on any public passenger vehicle.

Maximum penalty: 5 penalty units.

#### **51 Limitation on eating and drinking in certain public passenger vehicles**

- (1) A passenger must not eat or drink in any taxi-cab.

Maximum penalty: 5 penalty units.

- (2) A passenger must not:

- (a) drink any intoxicating liquor on any bus or ferry, unless the intoxicating liquor is supplied on the bus or ferry by, or with the permission of, the operator of the bus or ferry, or



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- (b) eat or drink on any bus or ferry, or part of a bus or ferry, in which eating and drinking is prohibited by signs displayed in the bus or ferry (or part of the bus or ferry), except with the written permission of the operator of the bus or ferry.

Maximum penalty: 5 penalty units.

- (3) However, nothing in this clause prohibits a passenger from drinking water, or from eating or drinking for medical reasons, in or on a public passenger vehicle.
- (4) In this clause, *drink*, in relation to intoxicating liquor, includes be in possession of an opened container of intoxicating liquor.

## 52 No animals

- (1) A passenger must not take into or on any public passenger vehicle any dog, cat, bird or other animal:
  - (a) in the case of a vehicle other than a bus or ferry—unless the animal is suitably confined in a box, basket or other container, and
  - (b) in the case of a bus or ferry—except with the permission of, and in the manner permitted by, the driver of the bus or the ferry master.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply to an assistance animal or an assistance animal in training.

## 53 Direction to leave public passenger vehicle

- (1) If, in the opinion of the driver of a public passenger vehicle or an authorised officer:
  - (a) a person's body, clothing or luggage (or any other thing on or carried by the person):
    - (i) may soil or damage the public passenger vehicle or the clothing or luggage of other passengers, or
    - (ii) is of such a size or has such dimensions that it cannot be accommodated in the public passenger vehicle without inconvenience or danger to other passengers or to the driver, or
  - (b) the person is otherwise causing, or is likely to cause, a nuisance or annoyance to other passengers or to the driver (whether because the person is under the influence of alcohol or a drug, or for any other reason), or

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(c) the person is committing an offence under this Regulation in or on a public passenger vehicle,  
the driver or authorised officer may direct the person to leave, or not to enter, the public passenger vehicle.

- (2) A person who is given such a direction must comply with it.  
Maximum penalty: 5 penalty units.

**54 Lost property**

A passenger who finds any article in or on a public passenger vehicle must:

- (a) return the article to its owner, or  
(b) give it to the driver of the public passenger vehicle or to an authorised officer.

Maximum penalty: 5 penalty units.

**55 No wilful damage**

A passenger must not wilfully damage any part of a public passenger vehicle.

Maximum penalty: 10 penalty units.

**56 No removal of property**

- (1) A passenger must not remove any property of the driver or operator from any public passenger vehicle.  
Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply to an authorised officer in the execution of his or her duty.

**57 No littering**

A passenger must not in or on any public passenger vehicle:

- (a) deposit any litter otherwise than in a receptacle provided for that purpose, or  
(b) deposit any thing that may endanger any person or property.

Maximum penalty: 5 penalty units.

**58 No throwing**

A passenger must not, without reasonable excuse, throw any thing in or from a public passenger vehicle.

Maximum penalty: 5 penalty units.

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Part 5	Conduct of passengers in or on public passenger vehicles

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### **59 Driver to take action in relation to dangerous conduct**

The driver of a public passenger vehicle must take such action as is appropriate (for example, contacting the operator or the police for help) if the driver believes on reasonable grounds that the conduct of a passenger is endangering the safety of any person.

## **Division 3 Additional prohibitions on certain conduct on buses and ferries**

### **60 No unauthorised commercial activities**

- (1) A passenger must not carry on a commercial activity on any bus or ferry except with the written permission of the bus or ferry operator concerned.

Maximum penalty: 5 penalty units.

- (2) For the purposes of this clause, a *commercial activity* means any one or more of the following:

- (a) the sale or hire (or the offer of sale or hire) of any thing,
- (b) the touting or soliciting for custom, hire or employment,
- (c) the distribution of handbills to any person,
- (d) the soliciting of money from any person (whether by way of busking or otherwise).

### **61 Entry to and exit from buses and ferries**

- (1) A passenger must not, without reasonable excuse, enter or leave a bus or a ferry:

- (a) in the case of a ferry—except at the side of the ferry adjoining the ferry wharf or other place designated by the ferry operator for passengers to enter or leave the ferry, or

- (b) in either case:

- (i) while the bus or ferry is in motion, or
- (ii) by getting through a window.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply to an authorised officer in the execution of his or her duty.

### **62 Limited stop buses and ferries**

- (1) A passenger must not board a bus at a bus stop at which the bus is not scheduled to pick up passengers.

Maximum penalty: 5 penalty units.

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Conduct of passengers in or on public passenger vehicles

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- (2) A passenger must not leave a bus at a bus stop at which the bus is not scheduled to set down passengers.  
Maximum penalty: 5 penalty units.
  - (3) A passenger must not board a ferry used for a regular ferry service or a long-distance ferry service at a ferry wharf at which the ferry is not scheduled to pick up passengers.  
Maximum penalty: 5 penalty units.
  - (4) A passenger must not leave a ferry used for a regular ferry service or a long-distance ferry service at a ferry wharf at which the ferry is not scheduled to set down passengers.  
Maximum penalty: 5 penalty units.

**63 No travel allowed on certain parts of bus or ferry**

- (1) A passenger must not, without reasonable excuse, travel on any portion of a bus or ferry not intended for the conveyance of passengers.  
Maximum penalty: 5 penalty units.
- (2) Without limiting subclause (1), portions of a bus not intended for the conveyance of passengers include the following:
  - (a) the roof, steps and footboard,
  - (b) the stairs of a two-decked bus.
- (3) A passenger must not sit or stand on the side rails of a ferry (whether or not the ferry is moving).  
Maximum penalty: 5 penalty units.

**64 No entry to driver's compartment of bus or ferry or crew compartment of ferry**

- (1) A passenger must not enter the driver's compartment of a bus or ferry.  
Maximum penalty: 5 penalty units.
- (2) A passenger must not:
  - (a) enter the crew compartment of a ferry without the permission of the master of the ferry or an authorised officer, or
  - (b) remain in the crew compartment of a ferry after having been requested to leave the compartment by the master of the ferry or an authorised officer.  
Maximum penalty: 5 penalty units.
- (3) Subclauses (1) and (2) do not apply to an authorised officer in the execution of his or her duty.

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Part 5	Conduct of passengers in or on public passenger vehicles

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**65 No interference with equipment on buses and ferries**

A passenger must not, without reasonable excuse:

- (a) interfere with any equipment attached to or forming part of a bus, or
- (b) block a bus door, or
- (c) open a locked bus door at any time, or
- (d) open an unlocked bus door while the bus is in motion, or
- (e) in any way interfere with an automatically operated bus door, or
- (f) use the public address or other communications system of a ferry, or
- (g) operate any equipment attached to or forming part of a ferry.

Maximum penalty: 10 penalty units.

**66 Passengers not to hinder use of ferry facilities by others**

- (1) A passenger or intending passenger must not, without reasonable excuse, hinder (whether by obstruction or by other means) another person's use of any ferry facilities.

Maximum penalty: 5 penalty units.

- (2) Without limiting subclause (1):

- (a) *ferry facilities* include the following:
  - (i) the entrance to a ferry wharf,
  - (ii) the exit from a ferry wharf,
  - (iii) stairways and escalators on, or leading to, a ferry wharf,
  - (iv) the gangplank between a ferry and a ferry wharf, and
- (b) a passenger or intending passenger who sits on a stairway on a ferry, or on a stairway on or leading to a ferry wharf, is taken to hinder another person's use of ferry facilities.

**67 No scooters or rollerblades or the like**

A passenger must not use a scooter or skateboard, or roller blades or roller skates, or the like, on a bus or a ferry.

Maximum penalty: 5 penalty units.

**68 Seating on buses for aged persons or persons with a disability**

- (1) An operator of a bus service may, by appropriate notices, set aside seating on a bus for persons who are aged or have a disability.

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- (2) A passenger who is not aged and does not have a disability must not continue to occupy a seat set aside for the aged and persons with disabilities if an aged person or a person with a disability wanting to use the seat (or a person on behalf of that person) asks the passenger to vacate the seat.

Maximum penalty: 5 penalty units.

Clause 69 Passenger Transport Regulation 2007

Part 6 Tickets

## Part 6 Tickets

### 69 Definitions

(1) In this Part:

**concession ticket** means:

- (a) in the case of a travelcard—a travelcard that is intended by the Public Transport Ticketing Corporation to provide for:
  - (i) free travel on public passenger vehicles, or
  - (ii) travel on public passenger vehicles at a reduced fare, and
- (b) in the case of any other ticket—a ticket issued free or at a reduced fare.

**paid area of a ferry wharf** means all parts of the ferry wharf between the place where ferries dock and the ticket barrier.

**Note.** A ferry wharf that does not have a ticket barrier will not have a paid area. As at the commencement of this clause, only Manly Wharf and the wharves at Circular Quay have ticket barriers.

**public passenger service** means the carriage of passengers for a fare or other consideration:

- (a) by a bus along a road or road related area, or along the whole or part of a transitway route, or
- (b) by vessel within any New South Wales waterway.

**public passenger vehicle** means:

- (a) a bus used to provide a public passenger service, or
- (b) a ferry used to provide a regular passenger service.

**Public Transport Ticketing Corporation** means the Public Transport Ticketing Corporation constituted under the *Transport Administration Act 1988*.

**read**, in relation to a travelcard and a travelcard reader, means ascertain the cash amount, or travel entitlement, recorded on the travelcard and, in the case of a cash amount so recorded, arrange for a debit or a credit to be made to the cash amount.

**scan**, in relation to a travelcard, means hold the travelcard in front of a travelcard reader until such time as the travelcard reader indicates (by means of a display, sound or other signal) that it has read the travelcard.

**ticket** means:

- (a) a travelcard, or
- (b) any other thing issued by or on behalf of the operator of a public passenger service for the purpose of authorising a person to travel on a public passenger vehicle used to carry on the service concerned.

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Clause 70

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Part 6

*ticket barrier* includes a travelcard reader.

*travelcard*—see clause 70.

*travelcard reader* means a machine, installed on a public passenger vehicle or at a place at which passengers may board or leave public passenger vehicles (including a transport interchange), for the purpose of reading a travelcard.

*valid ticket*—see clause 71.

- (2) For the purposes of this Part, a person is *entitled* to a concession ticket for travel on a public passenger vehicle if the person meets the age, occupation or status criteria for entitlement accepted by the operator of the public passenger service concerned.

#### **70 Meaning of “travelcard”**

- (1) A *travelcard* means a card, issued by or on behalf of the Public Transport Ticketing Corporation:
- (a) on which cash, or an entitlement to travel on public passenger vehicles, may be recorded electronically, and
  - (b) which may be scanned at, and read electronically by, a travelcard reader for the purpose of enabling the person to whom the travelcard is issued to pay for, or exercise an entitlement to, travel on public passenger vehicles (regardless of whether the travelcard may also be used to pay for, or exercise a right to, travel on other public transport systems).
- (2) Without limiting the way in which an entitlement to travel on a public passenger vehicle may be recorded on a travelcard, the entitlement may be limited by reference to any one or more (or any combination) of the following:
- (a) the kinds of public passenger vehicles on which the entitlement may be exercised,
  - (b) the geographical boundaries within which it may be exercised,
  - (c) the times or periods within which it may be exercised.

#### **71 Valid tickets**

- (1) A ticket other than a travelcard is valid for travel only for the journey or journeys for which it is issued.
- (2) A travelcard is valid for travel on a particular journey only if:
- (a) the travelcard is scanned at an appropriate travelcard reader on or before the commencement of the journey, and



Clause 72 Passenger Transport Regulation 2007

Part 6 Tickets

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- (b) there is sufficient credit recorded on the travelcard (whether in cash or in entitlement to travel) to permit travel, at the fare appropriate to the holder of the travelcard, for the stage of the journey immediately following the point at which the journey is commenced.
  - (3) A ticket transferred in contravention of clause 72 is not a valid ticket.
  - (4) In this clause, *stage* of a journey means:
    - (a) in the case of a journey by bus—the distance between the bus-stop at which the journey is commenced and the bus-stop at which the next following section commences, and
    - (b) in the case of a journey by ferry—the distance between the wharf at which the journey is commenced and the next following wharf.

#### **72 Tickets generally not transferable**

- (1) A person who is issued with a ticket must not transfer (or offer to transfer) the ticket, or a portion of the ticket, to any person.  
Maximum penalty: 5 penalty units.
- (2) This clause does not apply if:
  - (a) the ticket was bought on behalf of that other person and, in the case of a concession ticket, that other person is entitled to use that concession ticket, or
  - (b) the transfer is authorised by the bus operator, or
  - (c) the ticket is a travelcard.

#### **73 Alteration or defacement of tickets prohibited**

A person must not, with intent to deceive, alter or deface a ticket or make a ticket illegible (or, in the case of a ticket that has a magnetic strip or is a travelcard, inoperative).  
Maximum penalty: 5 penalty units.

#### **74 Valid ticket required for travel**

- (1) A person must not travel or attempt to travel on a public passenger vehicle unless the person holds a valid ticket for the travel concerned.  
Maximum penalty: 5 penalty units.
- (2) This clause does not apply:
  - (a) in the case of a person who does not hold a ticket—if the person boards a ferry at a ferry wharf where, at all relevant times before the person boarded the ferry, there were no facilities available for the issue of an appropriate ticket, or

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(b) in the case of a person who holds a travelcard—if the person boards a ferry at a ferry wharf where, at all relevant times before the person boarded the ferry, the card reader (if any) on the wharf was not functioning and there is no functioning card reader on the ferry.

(3) In this clause, *hold* a ticket means be able to produce the ticket on request.

#### **75 Concession tickets**

(1) A person must not travel on a public passenger vehicle on the authority of a concession ticket unless the person is entitled to the concession ticket.

Maximum penalty: 5 penalty units.

(2) The driver of a public passenger vehicle or an authorised officer may direct a person:

- (a) who is travelling in a public passenger vehicle on the authority of a concession ticket, or
- (b) who processes a concession ticket under clause 76, or
- (c) who makes a concession ticket available for inspection under clause 77,

to produce to the driver or authorised officer evidence (for example, the person's pensioner or student concession card) that the person is entitled to the concession ticket.

(3) A person who is given such a direction must comply with it.

Maximum penalty: 5 penalty units.

(4) A person may not be prosecuted for offences under both subclause (1) and subclause (3) in relation to the same travel.

#### **76 Tickets to be processed**

(1) A person must not, without reasonable excuse:

- (a) board a bus, or
- (b) if the person's ticket is a travelcard—leave a bus, or
- (c) enter (otherwise than by getting off a ferry) or leave the paid area of a ferry wharf used for the purposes of, or in connection with, a regular ferry service, or
- (d) if there is no paid area of the ferry wharf—board or leave a ferry, without processing the person's ticket in accordance with this clause.

Maximum penalty: 5 penalty units.

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- (2) For the purposes of this clause, a person processes a ticket:
- (a) in the case of a travelcard—by scanning it at an appropriate travelcard reader, and
  - (b) in the case of a ticket other than a travelcard:
    - (i) by putting it into automatic equipment provided to read or record any details on the ticket, or
    - (ii) by showing the ticket to an authorised officer on request, or
    - (iii) if the person is boarding a bus and the person does not hold a ticket—by buying the appropriate ticket from the driver of the bus.
- (3) A person who holds a ticket other than a travelcard must not process the ticket in the manner specified in subclause (2) (b) (ii) unless:
- (a) the person's ticket is not designed for insertion in automatic equipment, or
  - (b) the bus, ferry or ferry wharf concerned is not supplied with automatic equipment, or
  - (c) the person has a reasonable excuse for not using the automatic equipment.
- (4) The operator of a bus that is being used to provide a regular bus service must ensure that the driver of the bus is provided with facilities that enable the driver to sell tickets for journeys on the bus, unless the bus:
- (a) is clearly designated as a bus on which only pre-paid tickets may be used, or
  - (b) is used to provide a free service.
- Maximum penalty: 5 penalty units.
- (5) The driver of a bus that is being used to provide a regular bus service must (unless the driver has a reasonable excuse for not doing so) ensure that tickets for journeys on the bus are processed in accordance with this clause.
- Maximum penalty: 5 penalty units.

#### **77 Inspection of tickets**

- (1) A person who:
- (a) is on, or has just left, a public passenger vehicle, or
  - (b) is in the paid area of a ferry wharf used for the purposes of, or in connection with, a regular ferry service, or

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- (c) has just left the paid area of a ferry wharf used for the purposes of, or in connection with, a regular ferry service, must make his or her ticket available for inspection by an authorised officer on that officer's request.  
Maximum penalty: 5 penalty units.
- (2) A person who has just left the paid area of a ferry wharf used for the purposes of, or in connection with, a regular ferry service does not commit an offence under subclause (1) if the person's ticket has been:
- (a) captured by an automatic gate or other equipment provided to read or record any details on the ticket, or
  - (b) given to an authorised officer.

Clause 78 Passenger Transport Regulation 2007

Part 7 Special provisions relating to buses

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## Part 7 Special provisions relating to buses

### Division 1 Bus operators

#### 78 Buses to show accreditation details

- (1) The operator of a bus service must ensure that each bus used in the service displays, in accordance with this clause, the information required by this clause.

Maximum penalty: 10 penalty units.

- (2) The bus must display the following information:
- (a) the name under which the accreditation for the bus service in which the bus is normally used is held,
  - (b) the accreditation number allocated by the Director-General to the operator in respect of that bus service,
  - (c) the location of the depot at which the bus is normally based.
- (3) The information must be displayed as follows:
- (a) on the front nearside or offside panel of the bus,
  - (b) as far forward as possible (forward of the wheel arch, if possible),
  - (c) in English in block letters at least 50 millimetres high,
  - (d) in such a manner as to be clearly readable from a distance of 5 metres.

#### 79 Buses to be fitted with driver authority card holders

The operator of a bus service must ensure that each bus used in the service is fitted with a device suitable for holding the driver authority card in such a manner as to enable the driver to display the card as required by clause 92.

Maximum penalty: 5 penalty units.

#### 80 Management information system

- (1) The operator of a bus service must maintain the following records:
- (a) a fleet register that includes the vehicle identification number, fleet number (if allocated) and registration details of each vehicle in the fleet,
  - (b) a register of insurance details for each vehicle in the fleet,
  - (c) maintenance records for each vehicle in the fleet,
  - (d) records under the RTA's Heavy Vehicle Inspection Scheme in relation to each vehicle in the fleet,

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- (e) copies of drivers' vehicle defect reports,  
**Note.** See clause 81 for the requirement for these reports.
- (f) a register of reports of accidents involving vehicles in the fleet,
- (g) details of accidents involving vehicles in the fleet,
- (h) a complaints register detailing all complaints received in respect of the bus service and the action taken in respect of each complaint.

Maximum penalty: 5 penalty units.

- (2) In this clause:  
**vehicle identification number**, in relation to a motor vehicle, means the number allocated to the vehicle in accordance with the requirements of the Australian Design Rules under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

#### 81 Vehicle defect reports

- (1) The operator of a bus service must make available, in respect of each bus in the fleet, a blank vehicle defect form for each day that the bus is used in the provision of the service.  
Maximum penalty: 5 penalty units.
- (2) If the driver of the bus identifies a defect, the driver must fill in the form as appropriate at the end of the driver's period of driving the bus.  
Maximum penalty: 5 penalty units.
- (3) The completed form must be returned to the operator of the bus service, in accordance with the relevant procedures established by that operator, as soon as practicable after the bus's last journey on the day to which the form relates (or, in the case of a service that extends beyond midnight on any day, on the following day).

#### 82 Security camera systems and duress alarm systems

- (1) An operator of a bus service who carries on a regular passenger service partly or wholly within the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area must ensure that each bus in the fleet is fitted with:
  - (a) an approved security camera system, and
  - (b) an approved duress alarm system.
 Maximum penalty: 10 penalty units.
- (2) A person must not wilfully:
  - (a) interfere with any part of a security camera system or duress alarm system fitted to a bus, or

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(b) cause or permit any such interference, in such a manner as to prevent or impede the proper working of the system.

Maximum penalty: 15 penalty units.

- (3) Schedule 1 has effect in relation to any security camera system with which a bus is fitted (whether or not pursuant to this clause).
- (4) Nothing in this clause prevents any authorised officer or other person authorised by the Director-General for the purpose of this clause from carrying out an inspection, check or other test of, or performing any proper function in relation to, a security camera system or duress alarm system.

### **83 Timetables**

- (1) The operator of a long-distance bus service must ensure that the timetable for the service can reasonably be met without any need for buses to break any relevant speed limits.
- (2) The operator of a long-distance bus service must, on request by the Director-General, provide a copy of the timetable for the service so that the timetable may be checked to ensure that it complies with this clause.  
Maximum penalty: 10 penalty units.

### **84 Manifest of passengers**

- (1) The operator of a long-distance, tourist or charter service that is provided by means of buses must provide to the driver of each bus concerned, for each day that the bus is used to provide the service, a manifest of passengers that complies with this clause.  
Maximum penalty: 5 penalty units.
- (2) The manifest must contain the following information in respect of each passenger:
- (a) the passenger's name,
  - (b) contact details (such as an address and telephone number) for the passenger,
  - (c) the date and time that the passenger is due to board the bus,
  - (d) the seat number (if any) allocated to the passenger.
- (3) The driver of the bus must return the manifest to the operator as soon as practicable after the completion of the relevant journey.  
Maximum penalty: 5 penalty units.

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- (4) The operator of the service must retain each manifest for a period of 60 days after the completion of the relevant journey.  
Maximum penalty: 5 penalty units.
- (5) This clause does not apply in respect of a bus that:
- (a) is being used only within a radius of 40 kilometres from its usual depot, or
  - (b) is being used for a charter service, but only if the operator of the bus maintains records for 60 days after the bus is used for any such service that include the name, address and telephone number of the person that chartered the bus, the date and time of the charter and the telephone number of a responsible passenger on board the chartered bus.

#### **85 Information in buses**

- (1) The operator of a bus service must ensure that information is displayed inside a bus in accordance with this clause while the bus is being used to provide the service.  
Maximum penalty: 5 penalty units.
- (2) The following information must be displayed:
- (a) a summary of the rights and obligations of passengers,
  - (b) brief details (including a telephone number) as to how complaints relating to the bus services might be made.
- (3) The information:
- (a) must be approved by the Director-General, and
  - (b) must be displayed in a position where it may easily be read by passengers.

#### **86 Buses to be clean and tidy**

The operator of a bus service must not allow a bus to be used to provide the service unless the bus is clean and tidy.

Maximum penalty: 10 penalty units.

#### **87 Destination signs on buses**

- (1) The operator of a bus service must not use a bus to conduct a regular passenger service unless the bus displays a destination sign in accordance with this clause.  
Maximum penalty: 5 penalty units.
- (2) The sign:
- (a) must be displayed on the front of the bus, and



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- (b) must show the route number and the destination of the bus, and
- (c) must be capable of being illuminated.

- (3) This clause does not apply to or in respect of a bus that is being used principally to provide transport to school students pursuant to a contract with the Director-General under the Act.

### **88 Notification of accidents and incidents**

- (1) An operator of a bus service who becomes aware that a bus being used to provide the service has been involved in an accident or incident must notify the Director-General of the accident or incident, in accordance with this clause, if the accident or incident:
  - (a) resulted in a person being injured, or
  - (b) prevented the bus from continuing its journey, or
  - (c) is, in the reasonable opinion of the operator of the service, otherwise likely to arouse serious public concern.

Maximum penalty: 5 penalty units.

- (2) A notification under subclause (1):
  - (a) must be given within 3 days after the operator becomes aware of the accident or incident concerned, and
  - (b) must be given in a form approved by the Director-General.
- (3) An operator of a bus service who becomes aware that a bus being used to provide the service has been involved in an accident or incident must notify the Chief Investigator of the accident or incident, in accordance with this clause, if the accident or incident:
  - (a) involved or resulted in any one or more of the following:
    - (i) a person being injured,
    - (ii) the driver of the bus being incapacitated,
    - (iii) a mechanical or electrical fire or an explosion on the bus,
    - (iv) a failure of the steering or brakes of the bus,
    - (v) a bus being in motion while not under the effective control of a driver,
    - (vi) the bus being unable to continue its journey,
    - (vii) a person being caught in the doors of the bus and being dragged by the bus, or
  - (b) is, in the reasonable opinion of the operator of the service, otherwise likely to arouse serious public concern.

Maximum penalty: 5 penalty units.

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- (4) A notification under subclause (3):
    - (a) must be given immediately after the operator becomes aware of the accident or incident concerned, and
    - (b) must be given by telephone or by such other means as the Chief Investigator may reasonably require, and
    - (c) must include such details of the accident or incident as the Chief Investigator may reasonably require.
  - (5) The Director-General and Chief Investigator are to provide each other with access to the details of any notification given under this clause including access to any telephone recording that may have been made.

#### **89 Passengers to be notified of requirement to use seatbelts in buses**

- (1) The operator of a bus service must take reasonable steps to ensure that every passenger on a bus operated by the operator is made aware that the passenger is required to wear a seatbelt (if fitted) in the bus unless the passenger is exempt from that requirement under rule 267 of the *Australian Road Rules*.  
Maximum penalty: 10 penalty units.
- (2) Steps that may be taken under subclause (1) include (but are not limited to) the following:
  - (a) putting up signs inside the bus,
  - (b) arranging for the driver of the bus to notify passengers (for example, through a public address system on the bus or by means of a recorded audio message or video).

#### **90 Audit**

- (1) The Director-General may require an operator of a bus service, at regular intervals or at any particular time, to undertake (at the operator's expense) an audit of such of the operator's records and bus operations as the Director-General may specify.
- (2) An operator of whom a requirement is made under subclause (1):
  - (a) must cause the audit to be carried out in accordance with the Director-General's requirements, and
  - (b) must submit the audit to the Director-General within the period, or by the date, specified by the Director-General.  
Maximum penalty: 5 penalty units.
- (3) The Director-General may require any one or more of the audits under this clause to be carried out by an auditor, or by an auditor from a class, approved by the Director-General.

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## **Division 2      Conditions of service contracts**

### **91      Conditions of service contracts**

- (1) The following are conditions of every service contract that authorises the carrying on of a bus service:
  - (a) the operator of the bus service must ensure that every driver of a bus in the service is made aware of the provisions of Part 4 and of any guidelines referred to in clause 99,
  - (b) the operator must take all reasonable steps to notify a parent or guardian of a school student:
    - (i) before action is taken by the operator or a driver of a bus in the service in relation to a contravention of this Regulation by the school student, or
    - (ii) as soon as possible after such action is taken if immediate action was required in the circumstances,unless the operator considers that the action or the behaviour was of a minor nature,
  - (c) the operator must take all necessary steps to comply with any requirement given to the operator by the Director-General as a result of a review undertaken under clause 103.
- (2) An operator is to be considered to have taken all reasonable steps to notify a parent or guardian for the purposes of subclause (1) (b) if the operator sends the notification to the last address that the operator has recorded for the parent or guardian.
- (3) The conditions specified in subclause (1) for a service contract are in addition to the terms and conditions set out in the contract under section 16 (1) of the Act.
- (4) An operator of a bus service who is the holder of a service contract authorising the carrying on of the bus service must not contravene or fail to comply with the terms and conditions of the service contract.  
Maximum penalty: 50 penalty units.

## **Division 3      Drivers of buses**

### **92      Driver to display driver authority card**

The driver of a bus must not drive the bus unless the appropriate driver authority card:

- (a) is contained in a holder firmly affixed to the interior of the bus, and

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- (b) is displayed so that its face can be easily seen by any passenger in the bus.

Maximum penalty: 5 penalty units.

**93 Driver to stop bus to pick up and set down passengers**

- (1) Subject to this clause, the driver of a bus:
- (a) must stop the bus and set down any passenger who indicates to the driver that the passenger wishes to leave the bus, and
  - (b) must stop the bus and pick up any person who indicates to the driver that the person wishes to board the bus.

Maximum penalty: 5 penalty units.

- (2) The driver of a bus must not stop the bus on a road or road related area for the purpose of setting down or picking up passengers otherwise than close to and parallel with the side of the carriageway of the road or area.

Maximum penalty: 5 penalty units.

- (3) The driver of a bus may refuse to stop the bus:

- (a) at any place at which stopping the bus would be unlawful or, in the opinion of the driver, unsafe, or
- (b) in the case of a bus operating along a route for which bus stops are indicated by signs, at any place other than a bus stop.

- (4) The driver of a bus may refuse to stop the bus to set down a passenger at a bus stop at which the bus is not scheduled, as indicated on the bus or in the timetable for the relevant journey, to set down passengers.

- (5) The driver of a bus may refuse to stop the bus to pick up a passenger:

- (a) if by doing so the driver would contravene the provisions of clause 41 (Carriage of goods and animals) or 94 (Driver not to overload bus), or
- (b) if the intending passenger is a person who is, or who is carrying a thing that is, likely to soil or damage the bus or the clothing or luggage of other passengers, or otherwise to cause inconvenience, a nuisance or annoyance to other passengers or to the driver (as referred to in clause 53 (1) (a) or (b)), or
- (c) at a bus stop at which the bus is not scheduled, as indicated on the bus or in the timetable for the relevant journey, to pick up passengers.

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**94 Driver not to overload bus**

- (1) The driver of a bus must not:
- (a) carry at any one time in a single-decked bus (or on either deck of a two-decked bus) a greater number of passengers seated than the number authorised to be carried seated in the single-decked bus (or on that deck of the two-decked bus), or
  - (b) carry at any one time in a single-decked bus (or on the lower deck of a two-decked bus) a greater number of passengers standing than the number authorised to be carried standing.

Maximum penalty: 5 penalty units.

- (2) In calculating the number of passengers being carried, the following persons are not to be taken into account:
- (a) any child apparently under the age of 5 years who is being held on the lap of a seated passenger,
  - (b) of the children apparently under the age of 12 years (whether seated or standing), every third such child.
- (3) For the purposes of subclause (2) (b), the following children are not to be taken into account:
- (a) children who are seated on single seats,
  - (b) children who are seated on multiple seats that are designed (either by means of fixed armrests or seating places contoured for individual passengers) so as to be impracticable for use by more than the number of passengers for whom they are designed.
- (4) The number of passengers who, for the purposes of this clause, are authorised to be carried seated, or are authorised to be carried standing, is the appropriate number specified in a certificate issued by the manufacturer of the bus or by a consulting engineer approved by the RTA for the purposes of this clause.

**95 Operator to display sign showing maximum number of passengers**

The operator of a bus must ensure that there is displayed on the bus, in a conspicuous position on the outside of the rear of the bus and in letters at least 25 mm high and of proportionate breadth, the number of passengers authorised to be carried on the bus, seated and standing respectively.

Maximum penalty: 5 penalty units.

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**96 Driver not to carry passengers on certain portions of bus**

The driver of a bus must not:

- (a) carry any passenger on any portion of the bus not set apart or intended for the conveyance of passengers, or
- (b) in the case of a two-decked bus, permit any passenger to stand on the upper deck of the bus, or
- (c) permit any person to occupy any portion of the driving seat or of the bus on the right-hand side of that seat and abreast of it, or
- (d) permit any person to be on any portion of the bus in front of the driving seat.

Maximum penalty: 5 penalty units.

**97 Driver to remain in bus**

The driver of a bus must not, without reasonable excuse, leave the driving seat of the bus.

Maximum penalty: 5 penalty units.

**98 Driver to provide medical certificates**

The driver of a bus must, at the driver's own expense, furnish the Director-General at intervals of 36 months until the driver attains the age of 60 years with a certificate from a medical practitioner containing the medical practitioner's assessment, in accordance with any requirements of the Director-General, of the driver's medical condition.

Maximum penalty: 10 penalty units.

**Note.** See clause 47 for requirements for medical certificates after the driver attains the age of 60 years.

**Division 4 Special provisions relating to conduct of school students on buses**

**99 Dealing with contraventions of this Regulation by school students**

- (1) Despite any other provision of this Regulation, the operator of a bus service, a driver of a bus or an authorised officer may take only such action under this Regulation as is reasonable in the circumstances when dealing with a school student who has contravened a provision of this Regulation concerning travel on buses.
- (2) In determining what action is reasonable for the purposes of subclause (1), regard is to be had to any guidelines for managing the behaviour of school students on buses published from time to time by the Director-General.

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**100 Directions to move to certain part of the bus**

- (1) A driver of a bus, or an authorised officer on a bus, may direct a school student on the bus to occupy a specified seat on the bus, or to move to a particular part of the bus, if the driver or authorised officer believes on reasonable grounds that it is necessary for the preservation of order on the bus.
- (2) A school student who is given such a direction must comply with it.  
Maximum penalty: 5 penalty units.

**101 Direction to leave bus**

A driver of a bus, or an authorised officer on a bus, is not to direct a person who the driver or authorised officer knows is a school student (or ought reasonably to know is a school student) to leave the bus unless:

- (a) on leaving the bus, the school student will be in the care of a person who is legally responsible for the student, or
- (b) the place at which the student is directed to leave the bus would appear to a reasonable person to be appropriate, having regard to the traffic conditions, proximity to other transport and nature of the locality.

**102 Refusal to pick up school student**

A driver of a bus may refuse to stop for, or to allow onto the bus, a school student who the driver believes on reasonable grounds has contravened a provision of this Regulation concerning travel on buses (whether or not the student has been prosecuted in relation to the contravention).

**103 Review of action taken by operator or driver**

The Director-General may review any action taken by the operator of a bus service or by a driver of a bus that involves the refusal to carry a particular school student on a bus or the placing of conditions on the carrying of a particular school student on a bus.

**Division 5 Miscellaneous**

**104 Appointment of bus stops**

- (1) The Director-General may appoint bus stops, to be indicated by signs erected or displayed with the approval of the roads authority for the road concerned and on which the words "BUS STOP", "BUS STAND" or "BUS ZONE", or some suitable pictorial representation, appear.

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- (2) An operator of a bus service may appoint bus stops, but only in accordance with a prior written approval of the roads authority for the road concerned.
  - (3) If times are specified on a sign referred to in this clause, the sign operates only during those times, but if no times are so specified the sign operates at all times.
  - (4) In this clause, *roads authority* has the same meaning as it has in the *Roads Act 1993*.

**105 Buses registered interstate**

A person must not carry on a bus service using a bus that is not registered under the *Road Transport (Vehicle Registration) Act 1997* unless there is displayed in the bus, in a manner and form approved by the Director-General, an indication that the person is an accredited bus operator.

Maximum penalty: 10 penalty units.

**106 Interstate bus drivers: exemption from section 11**

- (1) A person who holds a licence, permit or other authority:
  - (a) that allows the person to drive a public bus (that is, a bus that is used to provide a public passenger service) in some other State or Territory, and
  - (b) that is recognised by the Department for the purposes of this clause,is exempt from the provisions of section 11 (1) of the Act, and so is not required to hold an authority under Division 2 of Part 2 of the Act in order to drive such a bus in New South Wales.
- (2) This exemption does not apply in relation to journeys that take place wholly within New South Wales.



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## **Part 8 Special provisions relating to taxi-cabs**

### **Division 1 Operators of taxi-cab services and taxi-cabs**

#### **107 Identification of taxi-cabs**

An operator of a taxi-cab service must notify the Director-General in writing of the following:

- (a) the registration number of each taxi-cab used to provide the taxi-cab service,
- (b) any change in the registration number of any such taxi-cab (no later than 48 hours after the change).

Maximum penalty: 5 penalty units.

#### **108 Wheelchair accessible taxi-cabs**

An operator of a taxi-cab service that involves the use of a wheelchair accessible taxi-cab must ensure that the taxi-cab concerned:

- (a) is capable of being fitted with a child restraint, and
- (b) carries a child restraint that is not more than 10 years old at all times that the taxi-cab is available for hire, and
- (c) is fitted with a hoist, or is equipped with a ramp, that allows safe access to the taxi-cab by a person using a wheelchair, and
- (d) carries wheelchair restraints that enable the maximum number of occupied wheelchairs that the taxi-cab is capable of conveying to be safely and securely attached to the taxi-cab, and
- (e) is driven only by a person who has successfully completed a course of training and instruction (approved by the Director-General and conducted by a registered training organisation) in respect of the care and transport of persons with physical disabilities, and
- (f) is not subject to any change of drivers between the hours of 12 noon and 5 pm on any day, and
- (g) on or after 1 January 2008, displays signs, of a design and in a manner approved by the Director-General, indicating the taxi-cab is wheelchair accessible.

Maximum penalty: 40 penalty units.

#### **109 Accommodation standard for taxi-cabs**

- (1) The operator of a taxi-cab must ensure that the taxi-cab complies with this clause.

Maximum penalty: 5 penalty units.

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- (2) A vehicle that is used as a taxi-cab must have seating accommodation for the driver and for at least 4 and not more than 11 other adult persons.
  - (3) The vehicle must have at least 4 side doors.
  - (4) Subclauses (2) and (3) do not apply to a maxi-cab or wheelchair accessible taxi-cab.
  - (5) The distance between the back of one seat and the front of the seat behind it must be at least 180 mm when the rear seat is occupied.
  - (6) For the purposes of subclause (5), any approved driver protection screen installed in the vehicle is to be ignored.
  - (7) Each seating position in the vehicle must be such that it is adequate when assessed in accordance with section 7.2 of the *Single Uniform Type Inspection (SUTI) Manual for Third Edition Australian Design Rules* as published in January 1988 by the Australian Motor Vehicle Certification Board.
  - (8) A station-wagon that is used as a taxi-cab must not have any seat (other than a seat installed when the vehicle was manufactured) installed in the part of the station-wagon that is designed or intended for the conveyance of goods.
  - (9) Subclause (8) does not apply to a station-wagon that:
    - (a) had such a seat installed, and
    - (b) was being used as a taxi-cab, immediately before 1 September 2001.
  - (10) A station-wagon that is used as a wheelchair accessible taxi-cab must not have any side-facing seat (whether fixed or folding) in the part of the station-wagon that is designed or intended for the conveyance of wheelchairs.
  - (11) A taxi-cab (other than a station-wagon) that is required by a condition of its licence to be wheelchair accessible must not have any seat (other than a folding seat) installed in the part of the taxi-cab that is designed or intended for the conveyance of wheelchairs.
  - (12) In this clause:  
*station-wagon* includes a station-wagon that has been modified.

#### **110 Maximum age of taxi-cabs**

- (1) A person must not operate a vehicle licensed as a taxi-cab (other than a wheelchair accessible taxi-cab) in respect of the Metropolitan transport district if the vehicle is more than 6 years old.  
Maximum penalty: 10 penalty units.

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- (2) A person must not operate a vehicle licensed as a taxi-cab (other than a wheelchair accessible taxi-cab) in respect of an area other than the Metropolitan transport district if the vehicle is more than 8 years old.  
Maximum penalty: 10 penalty units.
  - (3) A person must not operate a vehicle licensed as a taxi-cab that is a wheelchair accessible taxi-cab if the vehicle is more than 10 years old.  
Maximum penalty: 10 penalty units.
  - (4) The Director-General may grant written approval to extend the period referred to in subclause (1), (2) or (3) or may in writing exempt an operator or class of operators from the operation of any or all of those subclauses.
  - (5) An approval or exemption under this clause may be revoked or varied by the Director-General in the same manner as it was granted or given.
  - (6) For the purposes of this clause, the age of a vehicle is to be measured from 6 months after the date on which, in accordance with the regulations made under the *Road Transport (Vehicle Registration) Act 1997*:
    - (a) an identification plate is fitted to the vehicle, or
    - (b) an operations plate is installed in the vehicle, or
    - (c) a certificate of approved operations is issued in respect of the vehicle,
 whichever first occurs.

#### 111 Taxi-meters

- (1) The operator of a taxi-cab must not allow the taxi-cab to be driven unless the taxi-cab is fitted with a taxi-meter that complies with the standards for taxi-meters set out in Schedule 2.  
Maximum penalty: 10 penalty units.
- (2) The Director-General may by instrument in writing exempt a taxi-cab from the provisions of subclause (1).
- (3) If any such exemption is granted, the licence for the taxi-cab is to be endorsed accordingly.
- (4) The operator of a taxi-cab must ensure that all fares and other figures displayed on the face of the taxi-meter are clearly visible at all times to all persons in the taxi-cab, whether on the taxi-meter itself or by means of an auxiliary display unit connected to the taxi-meter.  
Maximum penalty: 5 penalty units.

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- (5) A person must not interfere with, or permit any interference with, a taxi-meter fitted to a taxi-cab, any seal attached to the taxi-meter or any portion of the mechanism controlling the taxi-meter so as to prevent the proper working of the taxi-meter.

Maximum penalty: 10 penalty units.

- (6) An exemption under this clause may be revoked or varied by the Director-General in the same manner as it was given.

#### **112 Duress alarm systems**

- (1) The operator of a taxi-cab that is connected to a taxi-cab network must ensure that the taxi-cab is fitted with an approved duress alarm system for taxi-cabs of that type.

Maximum penalty: 10 penalty units.

- (2) The operator must ensure that a taxi-cab that has a fully enclosed boot compartment is equipped with a lock release device that:

- (a) enables the boot compartment to be opened from inside the compartment, and
- (b) has a distinctively coloured and easily accessible handle, and
- (c) is not able to be rendered inoperable from outside the compartment when the boot is closed.

Maximum penalty: 10 penalty units.

#### **113 Vehicle tracking devices**

- (1) The operator of a taxi-cab that:

- (a) is operating in the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area, and
- (b) is connected to a taxi-cab network,

must ensure that the taxi-cab is fitted with an approved vehicle tracking device.

Maximum penalty: 10 penalty units.

- (2) An approved vehicle tracking device is taken to be an approved mandatory duress alarm system of the kind required by clause 112 (1).

- (3) A person must not wilfully:

- (a) interfere with any part of an approved vehicle tracking device fitted to a taxi-cab, or

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(b) cause or permit any such interference, in such a manner as to prevent or impede the proper working of the device.

Maximum penalty: 15 penalty units.

- (4) Nothing in this clause prevents any authorised officer or other person authorised by the Director-General for the purpose of this clause from carrying out an inspection, check or other test of, or performing any proper function in relation to, a vehicle tracking device.

#### **114 Security cameras**

- (1) The operator of a taxi-cab that is connected to a taxi-cab network and that operates within the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area must ensure that the taxi-cab is fitted:

- (a) before 1 March 2008, with either an approved driver protection screen or an approved security camera system, and  
 (b) on or after 1 March 2008, with an approved security camera system.

Maximum penalty: 15 penalty units.

- (2) The operator of a taxi-cab, other than a taxi-cab referred to in subclause (1), must ensure that on or after 1 September 2008, the taxi-cab is fitted with an approved security camera system.

Maximum penalty: 15 penalty units.

- (3) A person must not wilfully:

- (a) interfere with any part of an approved security camera system fitted to a taxi-cab, or  
 (b) cause or permit any such interference, in such a manner as to prevent or impede the proper working of the system.

Maximum penalty: 15 penalty units.

- (4) Schedule 1 has effect in relation to any security camera system with which a taxi-cab is fitted (whether or not pursuant to this clause).

- (5) Nothing in this clause prevents any authorised officer or other person authorised by the Director-General for the purpose of this clause from carrying out an inspection, check or other test of, or performing any proper function in relation to, a security camera system.

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**115 Driver protection screens**

- (1) The operator of a taxi-cab must ensure that on or after 1 March 2008, any driver protection screen fitted in the taxi-cab is of a design, and is fitted in a manner, that is approved by the Director-General.  
Maximum penalty: 15 penalty units.
- (2) A person must not wilfully:
  - (a) interfere with an approved driver protection screen fitted to a taxi-cab, or
  - (b) cause or permit any such interference,in such a manner as to remove or reduce the protection it affords to the driver of the taxi-cab.  
Maximum penalty: 15 penalty units.
- (3) Nothing in this clause prevents any authorised officer or other person authorised by the Director-General for the purpose of this clause from carrying out an inspection, check or other test of, or performing any proper function in relation to, a driver protection screen.

**116 Air-conditioning**

The operator of a taxi-cab must ensure:

- (a) that the taxi-cab is fitted with an air-conditioning system that is fully operational and in good repair, and
- (b) if the taxi-cab is a wheelchair accessible taxi-cab—that adequate air-conditioning is available to all parts of the vehicle in which passengers are carried.

Maximum penalty: 10 penalty units.

**117 Fitting of prohibited communication devices**

The operator of a taxi-cab must ensure that the taxi-cab is not fitted with a prohibited communication device.

Maximum penalty: 10 penalty units.

**118 Information in taxi-cabs**

- (1) The operator of a taxi-cab must ensure that information is displayed inside the taxi-cab in accordance with this clause while the taxi-cab is being used to provide a taxi-cab service.  
Maximum penalty: 5 penalty units.
- (2) The following information must be displayed:
  - (a) a summary of the rights and obligations of the hirer,

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- (b) brief details (including a telephone number) as to how complaints and comments relating to taxi-cab services might be made,
  - (c) the maximum fares and charges (as determined for the time being by the Director-General) on which the authorised fare for hiring is calculated,
  - (d) the maximum number of passengers that may be carried in the taxi-cab,
  - (e) a summary of the rights and obligations of the driver,
  - (f) the registration number of the taxi-cab.
- (3) The information must be:
- (a) approved by the Director-General, and
  - (b) displayed:
    - (i) in a form approved by the Director-General, and
    - (ii) in a position where it may easily be read by any passenger (even if this requires the display of the information in more than one place in the taxi-cab).
- (4) The reference to a registration number in subclause (2) (f) is, in the case of a stand-by taxi-cab, a reference to the normal registration number of the vehicle that is being used as a stand-by taxi-cab.

#### **119 Regular inspection of taxi-cabs**

- (1) The operator of a taxi-cab must present the taxi-cab at an authorised taxi-cab inspection station for inspection at least as frequently as the following (calculated from the date on which the taxi-cab was first registered as a taxi-cab):
  - (a) if the taxi-cab's area of operation is a transport district—every four months,
  - (b) if the taxi-cab's area of operation is a place in the Western Division—every twelve months,
  - (c) if the taxi-cab's area of operation is an area other than an area referred to in paragraph (a) or (b)—every six months.
- (2) The operator of a taxi-cab must ensure that the current label issued by or on behalf of the Department in connection with the periodic inspections carried out on the taxi-cab is prominently affixed next to the taxi-cab's registration label.

Maximum penalty: 10 penalty units.

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**120 Child restraint anchorage bolts in taxi-cabs**

The operator of a taxi-cab must ensure that the taxi-cab is fitted with a child restraint anchorage bolt that is capable of securing a child restraint that is not more than 10 years old.

Maximum penalty: 5 penalty units.

**121 Signs and lights on taxi-cabs**

- (1) A taxi-cab must be fitted with a roof sign:
  - (a) made of opaque plastic or some other substance approved by the Director-General, and
  - (b) enclosing a lamp capable of showing a white light, and
  - (c) displaying the word "TAXI" on the front and back of the sign in black capital letters at least 70 mm high.
- (2) The roof sign must have positioned on its top an amber lamp the light from which is capable of being clearly seen in daylight at a distance of 40 metres.
- (3) If a taxi-cab's area of operation is an urban area, the taxi-cab must also have positioned on the rear face of its roof sign (or in another position approved by the Director-General) a red lamp the light from which:
  - (a) is capable of being clearly seen in daylight from the rear of the taxi-cab at a distance of 40 metres at any point within an arc of 90 degrees (45 degrees on either side of the taxi-cab) extending from the middle of the roof of the taxi-cab, and
  - (b) is not visible from the front of the taxi-cab.
- (4) Subclause (3) does not apply to or in respect of a taxi-cab that is the subject of an exemption under clause 111 or 237.
- (5) In the case of a taxi-cab that is fitted with a taxi-meter, the lamp enclosed by the roof sign, the red lamp (if fitted) and the amber lamp must all be wired to the taxi-meter so that:
  - (a) while the taxi-cab is not for hire, all the lamps will be extinguished, and
  - (b) while the taxi-cab is available for hire, both the lamp enclosed by the roof sign and the amber lamp will be illuminated, and
  - (c) while the taxi-cab is engaged:
    - (i) both the lamp enclosed by the roof sign and the amber lamp will be extinguished, and
    - (ii) if the meter is computing the fare at the night-time surcharge rate, the red lamp will be illuminated.



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- (6) If a taxi-cab is the subject of an exemption under clause 111:
- (a) the roof sign lamp and amber lamp must each be operated so that:
    - (i) while the taxi-cab is engaged or not for hire, both the roof sign lamp and the amber lamp will be extinguished, and
    - (ii) while the taxi-cab is available for hire, both the roof sign lamp and the amber lamp will be illuminated, and
  - (b) the operator of the taxi-cab must not install, or (as the case may require) must remove, the red lamp.

Maximum penalty (subclause (6) (b)): 5 penalty units.

- (7) Except as permitted by this clause, a taxi-cab must not display any word, letter or sign that indicates that it is available for hire.

Maximum penalty: 5 penalty units.

- (8) The operator must ensure that a taxi-cab is fitted with all the equipment necessary for compliance with this clause and that the equipment is properly connected, wired and adjusted.

Maximum penalty: 5 penalty units.

- (9) A person must not wilfully:

- (a) interfere with any equipment (or the connection, wiring or adjustment of the equipment) necessary for compliance with this clause, or

- (b) cause or permit any such interference,

in such a manner as to prevent or impede the proper working of the equipment.

Maximum penalty: 5 penalty units.

- (10) In this clause:

**urban area** means an area that the Director-General from time to time specifies, by notice published in the Gazette under section 60A of the Act, as an urban area in respect of taxi-cab fares.

## 122 Network decals and livery

- (1) The operator of a taxi-cab that is connected to a taxi-cab network must ensure that:

- (a) the taxi-cab is fitted with a network decal sign (being a decal sign approved by the Director-General in relation to the network) securely mounted on each of the front doors of the taxi-cab, and

- (b) the taxi-cab is painted in the colours approved by the Director-General in relation to the network.

Maximum penalty: 5 penalty units.

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- (2) Relevant network decal signs additional to those mounted on the front doors of the taxi-cab may, with the approval of the Director-General, be mounted on other parts of the taxi-cab.

### **123 Taxi-cabs to display registration details**

- (1) The operator of a taxi-cab (other than a stand-by taxi-cab) must ensure that the taxi-cab displays, in accordance with this clause, the numbers corresponding to the vehicle registration number of the taxi-cab shown on the number-plates of the taxi-cab.

Maximum penalty: 5 penalty units.

- (2) The operator of a stand-by taxi-cab that is connected to a taxi-cab network must ensure that on or after 1 January 2008, the taxi-cab displays, in accordance with this clause, the numbers corresponding to the vehicle identification number allocated to the taxi-cab by the network.

Maximum penalty: 5 penalty units.

- (3) The numbers required to be displayed under this clause must be displayed as follows:

- (a) on the upper half of both the front nearside and offside panels of the taxi-cab,
- (b) as far back as possible,
- (c) in numbers at least 50 millimetres high,
- (d) in such a manner as to be clearly readable from a distance of 5 metres.

### **124 Stand-by taxi-cabs**

- (1) The operator of a stand-by taxi-cab that is connected to a taxi-cab network must not operate the taxi-cab without giving prior notice to the network of the operator's intention to do so.

Maximum penalty: 5 penalty units.

- (2) The operator of a stand-by taxi-cab must maintain a record of the operation of the stand-by taxi-cab in a form approved by the Director-General.

Maximum penalty: 5 penalty units.

- (3) The operator of a stand-by taxi-cab must, while the taxi-cab is operating as such, display on it a sign with the words "STAND-BY TAXI" clearly visible from the front of the taxi-cab.

Maximum penalty: 5 penalty units.

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- (4) A motor vehicle that is operated as a stand-by taxi-cab must comply with any standards for the time being applied by the RTA for the registration of vehicles intended to be used as taxi-cabs.
  - (5) A motor vehicle that is operated as a stand-by taxi-cab in place of a wheelchair accessible taxi-cab must meet all the requirements of a wheelchair accessible taxi-cab specified in clause 108 (a)–(f).
  - (6) A motor vehicle that is operated as a stand-by taxi-cab in place of a taxi-cab that is connected to a taxi-cab network must:
    - (a) have mounted on the front doors of the motor vehicle the decal signs approved by the Director-General in relation to the network concerned, and
    - (b) be painted in the colours approved by the Director-General in relation to that network, and
    - (c) be fitted with the following (but only to the extent to which the taxi-cab that the stand-by taxi-cab is replacing was required to be so fitted):
      - (i) a receiver that has continuous access to receivers forming part of the network,
      - (ii) an approved vehicle tracking device connected to the vehicle tracking system operated by the network,
      - (iii) a security device by which the driver can (in a discreet manner) notify the driver's whereabouts to the network from anywhere within the vehicle's area of operation, and
    - (d) be driven by a person wearing the approved network uniform relating to the network.
  - (7) The requirements of subclauses (4), (5) and (6) are prescribed for the purposes of section 32K (2) (g) of the Act.
  - (8) The other provisions of this Division apply to a stand-by taxi-cab in the same way as they apply to any other taxi-cab.

#### **125 Taxi-cabs to comply with on-road standards when inspected**

The operator of a taxi-cab must ensure that, at the time any inspection of the taxi-cab is carried out under Division 2 of Part 4C of the Act:

- (a) if the taxi-cab is a wheelchair accessible taxi-cab:
  - (i) the taxi-cab carries a child restraint that is not more than 10 years old as required by clause 108 (b), and
  - (ii) the taxi-cab is fitted with a hoist or is equipped with a ramp as required by clause 108 (c), and
  - (iii) the taxi-cab carries wheelchair restraints as required by clause 108 (d), and

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- (b) the taxi-cab complies in all respects with the requirements of clause 109, and
  - (c) the taxi-cab does not exceed the maximum permissible age as specified in clause 110 (1), (2) or (3) (as appropriate), and
  - (d) the taxi-cab is duly fitted with a taxi-meter of the kind referred to in clause 111 (unless the taxi-cab is exempted under clause 111 (2)), and
  - (e) the taxi-cab is duly fitted with a duress alarm system and lock release device as required by clause 112, and
  - (f) the taxi-cab is duly fitted with an approved tracking device as required by clause 113, and
  - (g) the taxi-cab is duly fitted with any approved driver protection screen or approved security camera system required by clause 114 and any signs required by clause 3 of Schedule 1, and
  - (h) the taxi-cab is fitted with an air-conditioning system as required by clause 116, and
  - (i) the taxi-cab is not fitted with any prohibited communication device, and
  - (j) the interior, exterior and fittings of the taxi-cab comply in all respects with the requirements of clause 17, and
  - (k) the information required by clause 118 is duly displayed in the taxi-cab, and the numbers required by clause 123 (1) are duly displayed on the taxi-cab, and
  - (l) the label required by clause 119 (2) is affixed in accordance with that subclause, and
  - (m) the taxi-cab is duly fitted with the child restraint anchorage bolt required by clause 120, and
  - (n) the taxi-cab is duly fitted with the roof sign lamp and other roof lamps required by clause 121, and
  - (o) if the taxi-cab is connected to a taxi-cab network:
    - (i) the taxi-cab is duly fitted with a receiver, and
    - (ii) the decal signs required by clause 122 (1) (a) are mounted on the taxi-cab, and
    - (iii) the taxi-cab is painted as required by clause 122 (1) (b).

Maximum penalty: 5 penalty units.

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**126 Advertisements and notices in or on outside of taxi-cabs**

The operator of a taxi-cab must not display, affix or install, or permit a person to display, affix or install, any advertisement or notice in or on the outside of the taxi-cab unless the advertisement or notice, the manner of its display and its location have been approved by the Director-General.

Maximum penalty: 5 penalty units.

**127 Alteration of a taxi-cab**

The operator of a taxi-cab that is altered in respect of any particulars contained in the licence for the taxi-cab must, no later than 7 days after the alteration takes place, give written notice of the alteration to the Director-General.

Maximum penalty: 5 penalty units.

**128 Network uniforms to be provided**

The operator of a taxi-cab that is connected to a taxi-cab network must provide approved network uniforms for the use of persons who drive the taxi-cab for hire.

Maximum penalty: 10 penalty units.

**129 Taxi-cab to be fitted with driver authority card holders**

The operator of a taxi-cab must ensure that the taxi-cab is fitted with a device suitable for holding the driver authority card in such a manner as to enable the driver to display the card as required by clause 132.

Maximum penalty: 10 penalty units.

**130 Driver to be supplied with worksheets**

The operator of a taxi-cab must provide each person who drives the taxi-cab with blank driver's worksheets, of a kind approved by the Director-General, for the person to complete in accordance with the requirements of clause 134.

Maximum penalty: 10 penalty units.

**131 Driver to be indemnified**

- (1) The operator of a taxi-cab must maintain insurance policies, and provide evidence of their currency, in accordance with this clause.

Maximum penalty: 10 penalty units.

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- (2) The operator must maintain one or more policies that indemnify the driver for the time being of a taxi-cab in relation to any damage (including any excess payable on a claim) arising out of the use of the taxi-cab.
  - (3) The policies must be maintained with a corporation authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business.
  - (4) The operator must provide an authorised officer, on request, with evidence that the policies are current.
  - (5) The operator must ensure that evidence that the policies are current is carried in the taxi-cab at all times.

## **Division 2 Drivers of taxi-cabs**

### **Subdivision 1 General**

#### **132 Driver to display driver authority card**

The driver of a taxi-cab must not drive the vehicle unless the appropriate driver authority card:

- (a) is contained in a holder firmly affixed to the interior of the taxi-cab, and
- (b) is displayed so that its face can be easily seen by any passenger in the taxi-cab.

Maximum penalty: 5 penalty units.

#### **133 Driver of wheelchair accessible taxi-cab to be trained**

- (1) A person must not drive a wheelchair accessible taxi-cab that is hired or for hire unless the person has successfully completed a course of training and instruction (approved by the Director-General and conducted by a registered training organisation) in respect of the care and transport of persons with physical disabilities.

Maximum penalty: 40 penalty units.

- (2) A person who successfully completes such a course of training and instruction must ensure that the Director-General is notified, in writing, of the person's completion of the course within 7 days after the person completes the course.

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### 134 Driver's worksheets

- (1) The driver of a taxi-cab must enter on a driver's worksheet:
- (a) when beginning a driving shift:
    - (i) the driver's name, driver licence number and driver authority card number, the registration number of the taxi-cab and the name of the taxi-cab network to which the taxi-cab is connected, and
    - (ii) the date and time the shift began and the odometer reading at that time, and
    - (iii) a notation that the driver has checked to see whether or not any security camera system fitted to the taxi-cab is operating, if that is the case, and
  - (b) when beginning a break of 30 minutes or more during a driving shift, the time the break began, and
  - (c) when ending a break of 30 minutes or more during a driving shift, the time the break ended, and
  - (d) when ending a driving shift:
    - (i) a brief description of any faults in the taxi-cab or its equipment that have come to the driver's attention during the shift, and
    - (ii) the date and time the shift ended and the odometer reading at that time.

Maximum penalty: 5 penalty units.

- (2) The driver of a taxi-cab:
- (a) must, on demand by an authorised officer during a driving shift, produce his or her driver's worksheet for that shift for inspection, and
  - (b) must, at the end of each driving shift, give his or her driver's signed worksheet for that shift to the operator of the taxi-cab.

Maximum penalty: 5 penalty units.

- (3) For the purposes of clause 19, driver's worksheets constitute records that the operator of the taxi-cab is required to retain.

### 135 Certain behaviour prohibited

The driver of a taxi-cab must not do any of the following:

- (a) cause or allow the taxi-meter in the taxi-cab to display the night-time surcharge rate at a time when that rate is not applicable,

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(b) display, affix or install, or permit a person to display, affix or install, any advertisement or notice in or on the outside of the taxi-cab unless the advertisement or notice, the manner of its display and its location have been approved by the Director-General,

(c) sell (or offer to sell) any service or thing to a hirer of, or a passenger in, a taxi-cab.

Maximum penalty: 5 penalty units.

**136 Driver to wear uniform**

The driver of a taxi-cab that is connected to a taxi-cab network must wear an approved network uniform at all times while driving the taxi-cab for hire.

Maximum penalty: 5 penalty units.

**137 Driver to remain with taxi-cab**

(1) The driver of a taxi-cab must not, without reasonable excuse, move more than 3 metres from the taxi-cab.

Maximum penalty: 15 penalty units (in the case of an offence committed in the Sydney Airport precinct) or 5 penalty units (in any other case).

(2) This clause does not apply:

(a) if the driver of a taxi-cab moves more than 3 metres from the taxi-cab for the purpose of loading luggage or goods into, or removing luggage or goods from, the taxi-cab, or

(b) to the driver of a taxi-cab while the taxi-cab is in a holding bay in the Sydney Airport precinct.

(3) In this clause:

**holding bay** means an area in the Sydney Airport precinct designated by signs erected with the approval of the Sydney Airport Corporation Limited as a holding bay for taxi-cabs.

**138 Taxi zones**

(1) The driver of a taxi-cab must not cause or allow the taxi-cab to stand in a taxi zone if the taxi-cab is hired or is not available for hire.

Maximum penalty: 5 penalty units.



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- (2) Unless otherwise directed by an authorised officer, the driver of a taxi-cab, on arriving at a taxi zone that contains positions for 2 or more taxi-cabs, must place and keep the taxi-cab in the first available position in the taxi zone.  
Maximum penalty: 5 penalty units.
  - (3) Subclause (2) does not apply if the taxi zone provides for angle or parallel parking.
  - (4) If more than one taxi-cab is in a taxi zone, the first taxi-cab in the taxi zone has a right to the hiring unless the person hiring selects a particular taxi-cab.
  - (5) At any place where taxi-cabs are congregated, a police officer may appoint temporary taxi zones and every driver must use the taxi zones as directed by a police officer.  
Maximum penalty: 5 penalty units.
  - (6) The driver of a taxi-cab must not cause or allow the taxi-cab to leave a taxi zone, or to leave any other place where passengers are picked up or set down, in contravention of a direction given by an authorised officer.  
Maximum penalty: 5 penalty units.
  - (7) The driver of a taxi-cab may set down a passenger in a taxi zone only if the taxi-cab concerned occupies the last available position in the taxi zone.

**139 Standing otherwise than in a taxi zone**

The driver of a taxi-cab must not permit the taxi-cab to stand otherwise than in a taxi zone, except as follows:

- (a) while loading or unloading luggage or goods or taking up or setting down passengers,
- (b) by the direction or with the consent of a police officer,
- (c) while hired,
- (d) while not available for hire.

Maximum penalty: 5 penalty units.

**140 Use of taxi-cab network**

The driver of a taxi-cab:

- (a) must use the taxi-cab's receiver in accordance with procedures for the taxi-cab network to which the taxi-cab is connected, and
- (b) must otherwise observe the published rules and by-laws of the network, and

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- (c) must comply with all reasonable requests of the network in relation to the provision of taxi-cab services.

Maximum penalty: 5 penalty units.

**141 Use of prohibited communication device**

The driver of a taxi-cab must not use a prohibited communication device for the purpose of accepting a hiring or assisting a person to hire a taxi-cab.

Maximum penalty: 10 penalty units.

**142 Display of destination sign on taxi-cab**

- (1) A taxi-cab that is available for hire may display a sign (a *destination sign*), in accordance with this clause, showing the name of the locality to which the driver is proceeding.

- (2) The driver of a taxi-cab must not permit the taxi-cab to display a destination sign otherwise than in accordance with this clause.

Maximum penalty: 5 penalty units.

- (3) A destination sign:

- (a) must be of a type, size and material, and
- (b) must contain only the wording, and
- (c) must be located in a position, approved by the Director-General.

- (4) A destination sign may be displayed only:

- (a) while the driver is proceeding, for the purpose of terminating a driving shift, in the general direction of the locality shown on the sign between the hours of:
  - (i) 1.30 am and 4.30 am, or
  - (ii) 12.30 pm and 4.30 pm, or
- (b) while the taxi-cab is standing between the hours of 1.30 pm and 3.30 pm in one of the following taxi zones in the City of Sydney:
  - (i) the taxi zone on the eastern side of Phillip Street between Bent and Hunter Streets,
  - (ii) the taxi zone on the northern side of Park Street between Pitt and Castlereagh Streets,
  - (iii) the taxi zone on the western side of George Street, between Alfred and Essex Streets, at Circular Quay.

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- (5) The driver of a taxi-cab that is displaying a destination sign must remove the sign:
- (a) when the taxi-cab is hired, or
  - (b) on arrival at the locality concerned, or
  - (c) at whichever of the following times is appropriate:
    - (i) 4.30 am or 4.30 pm,
    - (ii) 3.30 pm (in the case of a taxi-cab referred to in subclause (4) (b) that remains standing in the taxi zone concerned beyond that time),
- whichever of (a), (b) or (c) is the sooner.

## **Subdivision 2 Drivers in Sydney Airport precinct**

### **143 Driver to be hired only at specific zones**

- (1) The driver of a taxi-cab must not accept a hiring in the Sydney Airport precinct unless, at the time the taxi-cab is hired, the taxi-cab is in a taxi zone.  
Maximum penalty: 50 penalty units.
- (2) Subclause (1) does not apply in respect of a hiring that is made by means of a taxi-cab booking service.

### **144 Driver to supply information on hirings**

- (1) An authorised officer may require the driver of a taxi-cab who is in the Sydney Airport precinct to answer questions relating to the following:
- (a) whether the driver's vehicle is hired,
  - (b) if the driver indicates that the vehicle is hired, the details of that hiring.
- (2) The driver of a taxi-cab must not, without reasonable excuse, fail to comply with a requirement made of the driver under this clause.  
Maximum penalty: 10 penalty units.

### **145 Directions to driver by authorised officers**

- (1) An authorised officer may, for the purpose of ensuring that public passenger services are provided in the Sydney Airport precinct in a manner that is safe, reliable and efficient, direct the driver of a taxi-cab in the Sydney Airport precinct, by means of a sign or by any other reasonable method:
- (a) to stop the taxi-cab, or
  - (b) to move the taxi-cab in a particular direction or to a particular location in the Sydney Airport precinct.

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- (2) The driver of a taxi-cab must not, without reasonable excuse, fail to comply with a direction given to the driver under this clause.  
Maximum penalty: 10 penalty units.

### **Division 3 Taxi-cab hirings**

#### **146 Driver of taxi-cab to accept hiring**

- (1) Subject to this clause, the driver of a taxi-cab that is available for hire must accept a hiring immediately when offered.  
Maximum penalty: 5 penalty units.
- (2) The driver of a taxi-cab may refuse to accept a hiring:
- (a) if acceptance of the hiring would result in the number of passengers in the taxi-cab exceeding the maximum number of passengers that may be carried in the taxi-cab, or
  - (b) if acceptance of the hiring would cause the driver to contravene the provisions of clause 41 (Carriage of goods and animals), or
  - (c) in the case of a taxi-cab that is displaying a sign in accordance with clause 142 (Display of destination sign on taxi-cab), if the intending passenger indicates that he or she wishes to be taken to a location that is not on the way to the destination displayed by the sign, or
  - (d) if the intending passenger indicates that he or she wishes to be taken to a location that is outside the taxi-cab's area of operation, or
  - (e) if the intending passenger is smoking, eating or drinking and refuses to stop doing so, or
  - (f) if the intending passenger is a person who is, or who is carrying a thing that is, likely to soil or damage the taxi-cab or the clothing or luggage of other passengers, or to otherwise cause inconvenience, a nuisance or annoyance to other passengers or to the driver (as referred to in clause 53 (1) (a) or (b)), or
  - (g) if one of the intending passengers is under the age of 1 year and neither the driver of the taxi-cab nor any other intending passenger is carrying a child restraint that is not more than 10 years old, or
  - (h) if the intending passenger cannot, on request, satisfy the driver that the person is able to pay the estimated fare.

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**147 Driver of taxi-cab not to direct a person to unauthorised network**

If a person offers to hire a taxi-cab by means of a telephone call made to the driver of a taxi-cab and the driver refuses to accept the hiring for any reason, the driver must not, for the purpose of assisting the person to hire a taxi-cab:

- (a) direct or refer the person, or
- (b) pass on any information about the offer, to a person or body other than an authorised taxi-cab network.

Maximum penalty: 10 penalty units.

**148 Driver of wheelchair accessible taxi-cab to give preference to person using wheelchair**

- (1) The driver of a wheelchair accessible taxi-cab that is available for hire must accept a hiring offered by a person using a wheelchair in preference to a hiring offered by a person not using a wheelchair.

Maximum penalty: 5 penalty units.

- (2) The driver of a wheelchair accessible taxi-cab must accept a hiring offered by a person using a wheelchair even if the driver has already accepted the offer of a person not using a wheelchair unless one or more intending passengers are already seated in the taxi-cab at the time the person using a wheelchair offers to hire the taxi-cab.

Maximum penalty: 5 penalty units.

- (3) However, the driver of a wheelchair accessible taxi-cab is not obliged to accept a hiring by a person using a motorised wheelchair or scooter unless the driver is satisfied that conveyance of the motorised wheelchair or scooter will be safe for the driver and the person, having regard to the capacity of the taxi-cab, its loading equipment and its wheelchair restraints.

**149 Police officer may direct driver to accept hiring**

- (1) A police officer may direct the driver of a taxi-cab to accept a hiring, even though clause 146 (2) would otherwise allow the driver to refuse the hiring, but may not do so if the carrying out of the hiring would involve the driver in committing an offence (other than an offence against this Regulation).

- (2) The driver of the taxi-cab to whom such a direction is given must not, without reasonable excuse, fail to carry out the hiring in accordance with the direction.

Maximum penalty: 5 penalty units.

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- (3) In the event that the driver of a taxi-cab carries out a hiring in accordance with a direction under this clause:
- (a) the driver is exempt from any provision of this Regulation that would otherwise prohibit the driver from carrying out the hiring, and
  - (b) the police officer by whom the direction was given is liable to pay the driver, in addition to the authorised fare, reasonable compensation for any damage, injury, loss of time or other detriment consequent on the hiring.

**150 Manner in which hiring to be carried out**

- (1) The driver of a taxi-cab:
- (a) must not refuse or fail to carry out punctually any hiring accepted, and
  - (b) must drive the taxi-cab by the shortest practicable route to any place specified by the hirer that is within the taxi-cab's area of operation, unless the hirer requests that the taxi-cab be driven to that place by some other route.

Maximum penalty: 5 penalty units.

- (2) The hirer of a taxi-cab may at any time during the hiring direct the driver to carry the hirer to any place within the taxi-cab's area of operation, even if that place was not originally specified by the hirer, and the driver must not, without reasonable excuse, fail to comply with that direction.

Maximum penalty: 5 penalty units.

- (3) The driver of a taxi-cab must not stop the taxi-cab on a road or road related area for the purpose of setting down or picking up passengers otherwise than close to and parallel with the side of the carriageway of the road or area.

Maximum penalty: 5 penalty units.

- (4) The driver of a taxi-cab:

- (a) must refuse to stop the taxi-cab at any place at which stopping the taxi-cab would be unlawful, and
- (b) may refuse to stop the taxi-cab at any place at which stopping the taxi-cab would be, in the opinion of the driver, unsafe.

**151 Wheelchair to be safely and securely attached to taxi-cab**

The driver of a wheelchair accessible taxi-cab who is conveying a person using a wheelchair must ensure that the wheelchair is safely and securely attached to the taxi-cab throughout the hiring.

Maximum penalty: 10 penalty units.

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**152 Operation of taxi-cab's air conditioning**

The driver of a taxi-cab must, on request made by the hirer, cause the taxi-cab's air-conditioning system to operate.

Maximum penalty: 5 penalty units.

**153 Journey by taxi-cab to pick-up point**

(1) If a taxi-cab travels to a specified place to convey a hirer or the hirer's luggage or goods from that place, the following provisions apply:

- (a) the driver must, on arrival at the specified place, advise the hirer personally of such arrival (not by the sounding of a horn) or arrange for the hirer to be advised by any other lawful means of the actual or imminent arrival of the taxi-cab at that place,
- (b) unless the hirer and the driver otherwise agree, the hiring is to be regarded as commencing at the time the taxi-cab has arrived at the specified place and the hirer has been advised of its arrival, or at the time appointed for the arrival of the taxi-cab at the specified place, whichever of those times is the later,
- (c) if a taxi-meter is fitted to the taxi-cab, the driver must set the taxi-meter in operation at the time the hiring commences,
- (d) if the fares and charges determined by the Director-General include a booking fee, the booking fee is payable.

Maximum penalty: 5 penalty units.

- (2) Nothing in this clause requires the driver of a taxi-cab to comply with the request of a person to travel to another place to pick up a passenger, luggage or goods unless that person agrees to commence the hiring immediately.
- (3) While a taxi-cab is travelling to a specified place as referred to in subclause (1), the taxi-cab is to be taken for the purposes of clause 121 to be hired and not available for hire.

**154 Carriage of luggage and goods**

- (1) Subject to this clause, the driver of a taxi-cab must, when requested by a hirer, convey in or on the taxi-cab any luggage or goods.  
Maximum penalty: 5 penalty units.
- (2) The driver of a taxi-cab may refuse to convey any luggage or goods if by doing so the driver would contravene the provisions of clause 41 (Carriage of goods and animals).
- (3) The driver of a taxi-cab must not:
  - (a) except with the consent of the hirer, convey any luggage or goods on the roof of the taxi-cab,

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- (b) convey in any portion of the taxi-cab that is provided for the accommodation of passengers, any goods (except luggage) of an aggregate weight exceeding 25 kg.

Maximum penalty: 5 penalty units.

- (4) The driver of a taxi-cab must afford every reasonable assistance in loading and removing luggage or goods from or to any door or entrance of any house, station, wharf or place where the hiring of the taxi-cab commences or terminates, as the case may be, or in the near vicinity of it, and must take due care with and of the luggage or goods.

Maximum penalty: 5 penalty units.

- (5) The driver of a taxi-cab removing luggage or goods must promptly deliver the luggage or goods in the condition in which the driver received them.

Maximum penalty: 5 penalty units.

#### **155 Driver waiting or instructed to return**

- (1) If the hirer of a taxi-cab requests the driver to wait, the driver must wait for a period not exceeding 15 minutes, unless a shorter or longer period is agreed on, in which case the driver must wait for the period agreed.

Maximum penalty: 5 penalty units.

- (2) On arriving at a point at which the hirer requests the driver to wait, the driver may refuse to wait unless the hirer pays the authorised fare to that point and the authorised fare for waiting time.

- (3) The driver of a taxi-cab, on being discharged at any place and instructed to return, may claim the authorised fare to the time of discharge and is not obliged to accept the hiring to return.

#### **156 Termination of hiring by hirer**

The hirer of a taxi-cab may discharge the hire at any time.

#### **157 Termination of hiring by driver**

- (1) The driver of a taxi-cab may terminate a hiring in the following circumstances:

- (a) on any ground on which the driver could refuse to accept a hiring, as referred to in clause 146 (2),
- (b) if a passenger behaves in an offensive manner or uses offensive language,
- (c) if any passenger who is under 16 years of age is not wearing a seatbelt or other restraint that is properly adjusted and securely fastened,



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(d) on any ground set out in clause 53 (1) (a)–(c).

- (2) If the driver of a taxi-cab terminates a hiring under this clause, the hirer must, on demand, pay the authorised fare to the place where the hiring was terminated.

Maximum penalty: 5 penalty units.

#### **158 Additional passengers**

The driver of a taxi-cab must not:

- (a) permit any person to ride in the taxi-cab without the consent of the hirer, or
- (b) do or allow to be done any act or thing intended to result in any person's entering or riding in the taxi-cab in contravention of this clause.

Maximum penalty: 5 penalty units.

#### **159 Sharing of taxi-cabs**

- (1) At the commencement of (or during) a hiring of a taxi-cab, the hirer may require the driver:

- (a) to permit other persons to share the taxi-cab with the hirer, and
- (b) to drive one or more of the other persons to a destination other than the hirer's destination before driving the hirer to his or her destination.

- (2) The driver of the taxi-cab must comply with any such requirement.

Maximum penalty: 5 penalty units.

- (3) The driver of a shared taxi-cab must not demand payment from any passenger other than the hirer.

Maximum penalty: 5 penalty units.

#### **160 Multiple hiring of taxi-cabs**

- (1) The driver of a taxi-cab may accept separate hirings from 2 or more persons concurrently if:

- (a) all of the hirers commence the hiring of the taxi-cab at the same time, and
- (b) each of the hirers agrees that the driver may accept the other hirings, and
- (c) all of the hirers are travelling to destinations in the same general locality or the same general direction.

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- (2) A driver of a taxi-cab must not accept separate hirings from 2 or more persons concurrently otherwise than in accordance with subclause (1).  
Maximum penalty: 5 penalty units.

**161 Operation of meter by taxi-cab driver**

- (1) The driver of a taxi-cab to which a taxi-meter is fitted:
- (a) must not set the taxi-meter in motion before the taxi-cab is hired, and
  - (b) as soon as the taxi-cab is hired, must set the taxi-meter in motion, and
  - (c) during any hiring, must keep the taxi-meter in motion, and
  - (d) during any hiring, must stop the taxi-meter for as long as may be necessary to prevent it from registering a charge during any period during which:
    - (i) a hirer in a multiple hire is paying the authorised fare for his or her hire and getting out of the taxi-cab, or
    - (ii) the taxi-cab is delayed for a reason mentioned in clause 163 (5), and
  - (e) on the termination of any hiring (other than a hiring that is not the last hiring in a multiple hiring), must operate the taxi-meter so that the fare indicators return to zero.

Maximum penalty: 5 penalty units.

- (2) For the purposes of this clause, the hiring of a wheelchair accessible taxi-cab by a person using a wheelchair terminates (unless it is sooner terminated) when the taxi-cab stops at the hirer's destination. The driver of the taxi-cab must not demand payment in respect of any period during which the wheelchair:
- (a) is being released from its restraints in the taxi-cab, or
  - (b) is being manoeuvred (with or without the assistance of the driver of the taxi-cab) from the taxi-cab to a place at the hirer's destination such as a bus stop, railway station or wharf or the ground level entrance or door to a residence, hotel, surgery, hospital, office, factory or the like.

Maximum penalty: 5 penalty units.

- (3) Before receiving payment in respect of any hiring, the driver of a taxi-cab to which a taxi-meter is fitted:
- (a) must cause the amount recorded on the taxi-meter to be displayed so that it may be easily read by the hirer (and, if necessary for that purpose, must cause the face of the taxi-meter to be illuminated), and

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- (b) must state the amount of any extra charge for luggage, goods, tolls or charges.

Maximum penalty: 5 penalty units.

#### **162 Hirings outside area of operation**

- (1) The driver of a taxi-cab must not:
- (a) ply or stand the taxi-cab for hire outside its area of operation, or
  - (b) use the taxi-cab to carry out a pre-booked hiring outside its area of operation.

Maximum penalty: 50 penalty units.

- (2) Despite subclause (1) (b) or any term or condition of the taxi-cab's licence, the driver of a taxi-cab may use the taxi-cab to carry out a pre-booked hiring to convey a passenger from a place outside the taxi-cab's area of operation:

- (a) to a place inside the taxi-cab's area of operation, or
- (b) to a place outside the area of operation of any other taxi-cab.

#### **163 Fares for taxi-cabs**

- (1) The driver of a taxi-cab must not demand (or enter into an agreement to accept) more than the authorised fare for any hiring of the taxi-cab, unless:

- (a) the taxi-cab is hired to convey a passenger to a place outside the taxi-cab's area of operation, and
- (b) the fare is negotiated and agreed with the hirer before the start of the journey.

Maximum penalty: 10 penalty units.

- (2) After the termination of a hiring (or on leaving the taxi-cab in compliance with a direction to do so), the hirer must pay to the driver of the taxi-cab the authorised fare for the hiring.

Maximum penalty: 10 penalty units.

- (3) The driver of the taxi-cab must not, without reasonable cause, fail to offer the correct change if given money of greater value than the amount of the authorised fare for the hiring.

Maximum penalty: 5 penalty units.

- (4) The driver of a wheelchair accessible taxi-cab must, on receiving payment of the authorised fare for a hiring of the taxi-cab by or on behalf of a person using a wheelchair, provide the person with a receipt.

Maximum penalty: 5 penalty units.

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- (5) The driver of a taxi-cab must not demand the amount of a charge made for any period during which the taxi-cab is delayed:
- (a) because of any shortage of fuel or any accident to the tyres, mechanism or any other portion of the taxi-cab, or
  - (b) from any cause that it is in the power of the driver to prevent.
- Maximum penalty: 5 penalty units.
- (6) If a passenger soils a taxi-cab in such a manner that it would cause the driver to be in breach of the driver's obligation to ensure that the taxi-cab is clean and tidy, the driver is entitled to collect, and the hirer must pay, a cleaning fee equivalent to one hour of the waiting time fee determined by the Director-General under section 60A of the Act.
- (7) A hirer who fails to comply with the requirements of subclause (6) is guilty of an offence.
- Maximum penalty: 5 penalty units.

#### **Division 4 Taxi-cab networks**

##### **Subdivision 1 Authorisations to operate taxi-cab networks**

###### **164 Standards to be met, and information to be provided, by applicants for authorisation to operate taxi-cab networks**

- (1) An applicant for authorisation under Division 6 of Part 4 of the Act (that is, authorisation to operate a taxi-cab network) must meet the standards set forth in, and provide the information required by, this Subdivision, to the satisfaction of the Director-General.
- (2) If the applicant is a corporation, the directors or managers of the corporation who are nominated as designated directors or managers under section 35 of the Act must meet the standards (other than the standards specifically to be met by corporation applicants) set forth in, and provide the information required by, this Subdivision, to the satisfaction of the Director-General.

###### **165 Applicant to be of good repute**

- (1) The applicant must be of good repute.
- (2) Evidence of the applicant's good repute is to be provided in the form of references from 2 persons (being persons, excluding employees of the applicant, of any class approved by the Director-General) who have known the applicant for at least 2 years.

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**166 Applicant to be fit and proper person to operate taxi-cab network**

- (1) The applicant must be a fit and proper person to operate a taxi-cab network.
- (2) The applicant must declare in writing that the applicant is aware of the following:
  - (a) accreditation will be refused if the applicant is disqualified, under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act, from managing corporations,
  - (b) accreditation may be refused if the applicant (or a director or manager of an applicant corporation) has been the subject of proceedings under section 588G (Director's duty to prevent insolvent trading by company) or section 592 (Incurring of certain debts; fraudulent conduct) of the Corporations Act,
  - (c) if the applicant:
    - (i) is the director of a company that has been, or is in the course of being, wound up under Part 5.4 (Winding up in insolvency) of the Corporations Act, or
    - (ii) discloses any convictions or charges in accordance with subclause (3),the Director-General may, for the purpose of determining the applicant's fitness to be an authorised taxi-cab network provider, cause any investigation that the Director-General considers appropriate to be made into the winding up, conviction or charge concerned.
- (3) The applicant must give the Director-General written notice of the following:
  - (a) full details of all offences of which the applicant has been convicted (in any jurisdiction) at any time during the 5 years immediately preceding the date of the application,
  - (b) full details of all alleged offences with which the applicant has been charged (in any jurisdiction) but only if, as at the date of the application, proceedings are pending in respect of the charge.
- (4) If there are no convictions or pending proceedings against the applicant (as referred to in subclause (3)), the applicant must give the Director-General a written statement to that effect.

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**167 Applicant to have technical competence to operate taxi-cab network**

- (1) The applicant must:
- (a) demonstrate that the applicant has the necessary technical knowledge, equipment and competence to operate a taxi-cab network, and
  - (b) satisfy the Director-General that:
    - (i) appropriate technicians (whether employees or contractors of the applicant) will be available at all times to ensure that, as far as possible, faults in transmission can be rectified within an hour after they occur, and
    - (ii) the network will have in place arrangements (including a Disaster Recovery Plan) that will, in the event of a breakdown in the central transmitter, permit continuous access to and from the network by all the taxi-cabs of the accredited taxi-cab operators affiliated to the network, and
    - (iii) appropriate facilities (whether those of the applicant or of a contractor of the applicant) will be available to service and repair the network's equipment expeditiously, and
  - (c) provide the Director-General with the following:
    - (i) a copy of the applicant's licence to operate a communications network issued by the Australian Communications and Media Authority,
    - (ii) full details and specifications of the equipment to be used by the network, together with a report from a qualified communications engineer certifying that, in the opinion of the engineer, the equipment is reliable and will provide adequate transmission and reception throughout the areas of operation of the taxi-cabs to be connected to the network,
    - (iii) full details of a regular maintenance program for the equipment,
    - (iv) full details of the method by which the network will register the activation of duress alarm systems in taxi-cabs and identify the location of the taxi-cabs concerned,
    - (v) if any taxi-cab to be connected to the network is required by this Regulation to be fitted with an approved security camera system—full details of the applicant's facilities for the receipt, storage, reproduction and disposal of video recordings from security camera systems.

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**168 Applicant to be financially capable of operating taxi-cab network**

- (1) The applicant must be financially capable of operating a taxi-cab network.
- (2) Evidence of the applicant's financial standing is to be provided in the form of the following:
  - (a) a report from a qualified accountant (other than an employee of the applicant), on the accountant's business letterhead, on the applicant's financial capacity to operate a taxi-cab network,
  - (b) a statement from the applicant's banker setting out the bank's credit assessment of the applicant (or the applicant's relevant business),
  - (c) if the applicant is:
    - (i) a corporation—copies of its annual financial reports, as lodged with the Australian Securities and Investments Commission, or
    - (ii) a co-operative—copies of its annual reports lodged under section 252 of the *Co-operatives Act 1992*,  
for the immediately preceding 5 years (or, if the corporation or co-operative has been in existence for less than 5 years, for all the preceding years of its existence).

**169 Applicant to have managerial competence to operate taxi-cab network**

- (1) The applicant must satisfy the Director-General that the applicant has the necessary managerial skills and expertise to operate a taxi-cab network.
- (2) In particular, the applicant must:
  - (a) provide the Director-General with full details of:
    - (i) a training program, to be undertaken by drivers of taxi-cabs and other users of the network, covering customer relations and the use of the communications equipment, duress alarm systems, vehicle tracking devices and security cameras, and
    - (ii) the standards and rules that will govern the operation of the taxi-cab network (including standards and rules concerning the booking and despatching procedures and the operation of communications equipment by drivers of taxi-cabs), and
  - (b) satisfy the Director-General that the applicant has the ability and the willingness to discipline any user of the network who fails to meet the standards or comply with the rules referred to in subclause (2) (a) (ii).

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**170 Information to be provided**

The applicant must provide the following with the application:

- (a) if the applicant is a corporation or co-operative, copies of:
  - (i) the applicant's constitution or rules, and
  - (ii) the proposed network by-laws,
- (b) a copy of the proposed agreement between the applicant and affiliated accredited operators,
- (c) if the applicant intends to use or retain the services of a particular authorised taxi-cab inspection station—details of that station,
- (d) if the applicant intends to pass booking requests received by it to another authorised taxi-cab network provider—a copy of the proposed agreement between the applicant and the other provider,
- (e) if the applicant intends to provide a taxi-cab booking service through a booking service despatch provider, copies of:
  - (i) the booking service despatch provider's licence to operate a communications network, issued by the Australian Communications and Media Authority, and
  - (ii) the proposed agreement between the applicant and the booking service despatch provider concerned.

**171 Fees relating to authorisations to operate taxi-cab networks**

- (1) The fee for the consideration of an application for authorisation to operate a taxi-cab network (referred to in section 34A (2) of the Act) is \$500.
- (2) The fee for a renewal of an authorisation to operate a taxi-cab network (referred to in section 34C (2) of the Act) is \$300.

**Subdivision 2 Conditions of authorisation to operate taxi-cab network****172 Conditions of authorisation to operate taxi-cab network**

For the purposes of section 34D (1) (b) of the Act, compliance with the requirements of this Subdivision is prescribed as a condition to which an authorisation to operate a taxi-cab network is subject.

**173 Continuing capacity to operate taxi-cab network**

The authorised taxi-cab network provider must continue to meet the standards set forth in Subdivision 1.



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**174 Driver safety**

The authorised taxi-cab network provider must ensure that:

- (a) the equipment of the network is maintained, and users of the equipment are trained, to a level that ensures, as far as is possible, the efficient operation of duress alarm systems in taxi-cabs and the prompt response of network operators when such a system is activated, and
- (b) equipment that registers the activation of duress alarm systems in taxi-cabs is monitored at all times that taxi-cabs connected to the network are being used as taxi-cabs, and
- (c) if any taxi-cab connected to the network is required by this Regulation to be fitted with an approved driver protection screen or an approved security camera system—the equipment of the network is capable of producing video recordings from any such camera at all times while the taxi-cab to which it is fitted is being used as a taxi-cab.

**175 Operator of taxi-cab service to be given access to booking service**

The authorised taxi-cab network provider must not:

- (a) unreasonably (in the opinion of the Director-General) refuse to provide access to its taxi-cab booking service to an operator of a taxi-cab service, or
- (b) impose such charges for, or conditions on, access to its taxi-cab booking service as are, in the opinion of the Director-General, so unreasonable as to be intended to prevent or limit access to the service.

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**176 Child restraints to be carried in at least 10% of taxi-cabs**

The authorised taxi-cab network provider must ensure that, on every day on which the network is being used, the following number of taxi-cabs using the network's booking service are capable of being fitted with, and carry, a child restraint that is not more than ten years old:

- (a) in the case of a taxi-cab network that has fewer than 10 taxi-cabs using its taxi-cab booking service—at least one of the taxi-cabs, and
- (b) in the case of a taxi-cab network that has 10 or more taxi-cabs using its taxi-cab booking service—at least one out of every 10 taxi-cabs using the service (disregarding any number of those taxi-cabs that exceeds the maximum number of them that is divisible by 10).

**177 Persons booking wheelchair accessible taxi-cabs to be notified of estimated time that taxi-cab will arrive**

The authorised taxi-cab network provider must ensure that every person who books a wheelchair accessible taxi-cab through the network is notified, within a reasonable time, of the time at which it is estimated that the taxi-cab will arrive at the nominated collection point unless the person directs that no such notice is necessary.

**178 Lost property**

- (1) The authorised taxi-cab network provider must ensure that it has adequate facilities (including a secure storage area and sufficient staff) for dealing with lost property in accordance with procedures approved by the Director-General.
- (2) Any lost property given to an operator of a taxi-cab network is to be dealt with according to directions given by the Director-General and may, if the Director-General thinks fit, be disposed of in accordance with directions given in that behalf.

**179 Affiliates of network**

The authorised taxi-cab network provider must give the Director-General written notice of the following:

- (a) within 7 days after being requested to do so by the Director-General—full details (including the name, address and place of business) of all accredited taxi-cab operators who are affiliated to the network,

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- (b) within 48 hours after a new accredited taxi-cab operator becomes affiliated to the network (whether by way of transfer from another network or otherwise)—full details (including the name, address, place of business and accreditation number) of that accredited taxi-cab operator,
- (c) within 7 days after an operator of a taxi-cab service who is affiliated to the network connects an additional taxi-cab to the network—the registration number of the taxi-cab concerned.

#### **180 Drivers to be authorised and affiliates to be accredited**

The authorised taxi-cab network provider:

- (a) must not allow a taxi-cab to operate through the network unless the taxi-cab:
  - (i) is operated by an accredited taxi-cab operator, and
  - (ii) is driven by an authorised taxi-cab driver, and
- (b) must not accept a person as an affiliate of the network unless the person is an accredited taxi-cab operator.

#### **181 Use of network equipment**

The authorised taxi-cab network provider:

- (a) must not adopt any communication procedures that are likely to disadvantage the public, and
- (b) must provide the Director-General with written details of:
  - (i) any zones established in the network in relation to the despatch of taxi-cabs in response to bookings, and
  - (ii) the method of identifying those zones.

### **Division 5 Miscellaneous**

#### **182 Performance reports**

- (1) The authorised taxi-cab network provider must provide the Director-General, at the Director-General's request, with an accurate report on such aspects of the performance of the authorised taxi-cab network provider relating to the provision of taxi-cab services as the Director-General may specify when making the request.
- (2) Such a report must be made in the manner or format, within the time, and as frequently, as the Director-General may reasonably require.  
Maximum penalty 10 penalty units.

#### **183 Appointment of taxi zones**

- (1) The Director-General may appoint taxi zones for taxi-cabs.

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- (2) Taxi zones are to be indicated by signs erected on or near a road.
- (3) A sign referred to in this clause may specify the class or classes of taxi-cabs that may use the taxi zone to which it relates.
- (4) If times are specified on a sign referred to in this clause, the sign operates only during those times, but if no times are so specified the sign operates at all times.
- (5) The wording on a sign referred to in this clause is to be approved by the RTA.

**184 Director-General to be notified of lease of licence for taxi-cab**

- (1) The holder of a licence for a taxi-cab who leases the licence to another person must cause written notice of the lease to be given to the Director-General in accordance with this clause.  
Maximum penalty: 10 penalty units.
- (2) The notice must be given no later than 7 days after the licence is leased.
- (3) The notice must specify:
  - (a) the name, date of birth, residential address, telephone number and facsimile number (if any) of the lessee, and
  - (b) the commencement date of the lease.
- (4) This clause applies to a lessee of a licence who subleases the licence in the same way as it applies to the lessor of the licence.

**185 Condition of licence: information concerning transfer**

For the purposes of section 32F (1) (a) of the Act, it is a condition of a licence for a taxi-cab that, if the licence is to be transferred, the transferor and the transferee must furnish to the Director-General such information as the Director-General may reasonably require from them to enable the Director-General:

- (a) to calculate the amount of tax payable under section 44 of the Act on the transfer, and
- (b) to register the transfer.

**186 Reduction or waiver of fees for licences for taxi-cabs**

- (1) For the purposes of section 32I (2) of the Act, the following circumstances are specified as circumstances in which the Director-General may fix the licence fee for a taxi-cab licence at less than the current value of the licence on the open market or decide not to impose a fee for the licence:

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- (a) circumstances in which the Director-General is of the opinion that the service concerned would, for economic or other reasons, be unlikely to be provided if the full licence fee were to be imposed,
  - (b) circumstances in which conditions of the licence impose restrictions on the use of the taxi-cab to which the licence relates in respect of:
    - (i) the days on which the taxi-cab may be used to provide a taxi-cab service, or
    - (ii) the times during which the taxi-cab may be used to provide a taxi-cab service, or
    - (iii) the kind of taxi-cab service that the taxi-cab may be used to provide.
- (2) Without limiting the generality of subclause (1) (a), circumstances of the kind referred to in that subclause may include the following:
- (a) circumstances in which the service is to be provided for the benefit of persons who have disabilities,
  - (b) circumstances in which the service is to be provided in a fringe area of a transport district or outside such a district.

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Clause 187

Special provisions relating to private hire vehicles

Part 9

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## **Part 9 Special provisions relating to private hire vehicles**

### **Division 1 Design, equipment and fittings of private hire vehicles**

#### **187 Specifications for private hire vehicles**

- (1) The Director-General may, by notice published in the Gazette, do any one or more of the following:
  - (a) specify the makes, models or types of vehicles that may be operated as private hire vehicles,
  - (b) set out specifications with which a private hire vehicle must comply,
  - (c) set out criteria that a private hire vehicle must meet,
  - (d) prohibit the operation as private hire vehicles of vehicles of specified types,
  - (e) prohibit the operation as a private hire vehicle of a vehicle that is older than the age specified in the notice (either generally or in relation to a particular make, model or type of vehicle).
- (2) A notice under this clause:
  - (a) may apply to private hire vehicles generally or apply differently according to different factors of a specified kind, and
  - (b) may contain provisions of a savings or transitional nature.
- (3) The Director-General may vary or revoke a notice under this clause by further notice published in the Gazette.
- (4) A person must not operate a vehicle as a private hire vehicle unless the vehicle meets the requirements of any notice under this clause that is in force.

Maximum penalty: 20 penalty units.
- (5) For the purposes of this clause, the age of a vehicle is to be measured from the date that is 6 months after the date on which, in accordance with the regulations made under the *Road Transport (Vehicle Registration) Act 1997*:
  - (a) an identification plate is fitted to the vehicle, or
  - (b) an operations plate is installed in the vehicle, or
  - (c) a certificate of approved operations is issued in respect of the vehicle,whichever first occurs.

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Part 9	Special provisions relating to private hire vehicles

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**188 Meters not to be installed in private hire vehicles**

- (1) The operator of a private hire vehicle must ensure that there is not installed in the private hire vehicle any taxi-meter or similar device designed or intended or used to compute any of the following in relation to a journey:
  - (a) the distance travelled,
  - (b) the time taken,
  - (c) the fare payable.Maximum penalty: 5 penalty units.
- (2) Subclause (1) does not apply to a clock, an odometer or a Global Positioning System device.

**Division 2 Drivers of private hire vehicles****Subdivision 1 General****189 No plying or standing for hire**

The driver of a private hire vehicle must not:

- (a) ply, stand or park the vehicle for hire on any road or road related area, or
- (b) use the vehicle to carry out a hiring other than a pre-booked hiring, or
- (c) if the licence for the private hire vehicle specifies an area of operation for the vehicle—use the vehicle to carry out a hiring to convey a passenger from a place outside the vehicle's area of operation to a place other than a place inside that area.

Maximum penalty: 50 penalty units.

**190 Manner in which hiring to be carried out**

- (1) The driver of a private hire vehicle:
  - (a) must not refuse or fail to carry out punctually any hiring accepted, and
  - (b) must drive the vehicle by the shortest practicable route to any place specified by the hirer, unless the hirer requests that the vehicle be driven to that place by some other route.

Maximum penalty: 5 penalty units.

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Special provisions relating to private hire vehicles

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- (2) The driver of a private hire vehicle must not stop the vehicle on a road or road related area for the purpose of setting down or picking up passengers otherwise than close to and parallel with the side of the carriageway of the road or area.

Maximum penalty: 5 penalty units.

- (3) The driver of a private hire vehicle may refuse to stop the vehicle at any place at which stopping the vehicle would be unlawful or, in the opinion of the driver, unsafe.

**191 Termination of hiring by hirer**

The hirer of a private hire vehicle may discharge the hire at any time.

**192 Additional passengers**

The driver of a private hire vehicle must not:

- (a) permit any person to ride in the vehicle without the consent of the hirer, or
- (b) do or allow to be done any act or thing intended to result in any person's entering or riding in the vehicle in contravention of this clause.

Maximum penalty: 5 penalty units.

**193 Fares not to be charged for avoidable delays**

The driver of a private hire vehicle must not demand the amount of a charge made for any period during which the vehicle is delayed:

- (a) because of any shortage of fuel or any accident to the tyres, mechanism or any other portion of the vehicle, or
- (b) from any cause that it is in the power of the driver to prevent.

Maximum penalty: 5 penalty units.

**194 Payment of fares for hiring private hire vehicles**

- (1) The hirer of a private hire vehicle must, after the termination of the hiring, pay the driver of the vehicle the fare for the hiring, except as provided by subclause (3).

Maximum penalty: 5 penalty units.

- (2) The fare cannot exceed the amount notified to the hirer before the hiring.

- (3) If a person has entered into an arrangement with an operator with respect to the ongoing hire of any one or more private hire vehicles, the person must pay the fare or fares in accordance with the arrangement.

Maximum penalty: 5 penalty units.



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Part 9	Special provisions relating to private hire vehicles

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(4) In this clause:

*fare* means the amount charged for the hiring of a private hire vehicle, and includes any amount charged for the conveying of luggage or goods.

## **Subdivision 2 Drivers in Sydney Airport precinct**

### **195 Driver to remain with vehicle**

(1) The driver of a private hire vehicle in the Sydney Airport precinct must not, without reasonable excuse, move more than 3 metres from the vehicle.

Maximum penalty: 15 penalty units.

(2) This clause does not apply if the driver of a private hire vehicle moves more than 3 metres from the vehicle for the purpose of loading luggage or goods into, or removing luggage or goods from, the vehicle.

### **196 Driver to be hired only at specific zones**

(1) The driver of a private hire vehicle must not, while in the Sydney Airport precinct, stop the vehicle for the purpose of setting down or picking up passengers except in a designated area.

Maximum penalty: 50 penalty units.

(2) In this clause:

*designated area* means an area in the Sydney Airport precinct designated by signs erected with the approval of the Sydney Airport Corporation Limited as an area for the setting down and picking up of passengers of private hire vehicles.

### **197 Driver to supply information on hirings**

(1) An authorised officer may require the driver of a private hire vehicle who is in the Sydney Airport precinct to answer questions relating to the following:

- (a) whether the driver's vehicle is hired,
- (b) if the driver indicates that the vehicle is hired, the details of that hiring.

(2) The driver of a private hire vehicle must not, without reasonable excuse, fail to comply with a requirement made of the driver under this clause.

Maximum penalty: 10 penalty units.

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Special provisions relating to private hire vehicles

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**198 Directions to driver by authorised officers**

- (1) An authorised officer may, for the purpose of ensuring that public passenger services are provided in the Sydney Airport precinct in a manner that is safe, reliable and efficient, direct the driver of a private hire vehicle in the Sydney Airport precinct, by means of a sign or by any other reasonable method:
  - (a) to stop the vehicle, or
  - (b) to move the vehicle in a particular direction or to a particular location in the Sydney Airport precinct.
- (2) The driver of a private hire vehicle must not, without reasonable excuse, fail to comply with a direction given to the driver under this clause.  
Maximum penalty: 10 penalty units.

**Division 3 Miscellaneous**

**199 Alteration of a private hire vehicle**

The operator of a private hire vehicle that is altered in respect of any particulars contained in the licence for the private hire vehicle must, no later than 7 days after the alteration takes place, give written notice of the alteration to the Director-General.

Maximum penalty: 5 penalty units.

**200 Condition of licence: information concerning transfer**

For the purposes of section 39F (1) (a) of the Act, it is a condition of a licence for a private hire vehicle that, if the licence is to be transferred, the transferor and the transferee must furnish to the Director-General such information as the Director-General may reasonably require from them to enable the Director-General to register the transfer.

**201 Reduction or waiver of fees for licences for private hire vehicles**

- (1) For the purposes of section 39I (2) of the Act, the following circumstances are specified as circumstances in which the Director-General may fix the licence fee for a private hire vehicle licence at less than the current value of the licence on the open market or decide not to impose a fee for the licence:
  - (a) circumstances in which the Director-General is of the opinion that the service concerned would, for economic or other reasons, be unlikely to be provided if the full licence fee were to be imposed,

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Part 9	Special provisions relating to private hire vehicles

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- (b) circumstances in which conditions of the licence impose restrictions on the use of the private hire vehicle to which the licence relates in respect of:
  - (i) the days on which the private hire vehicle may be used to provide a private hire vehicle service, or
  - (ii) the times during which the private hire vehicle may be used to provide a private hire vehicle service, or
  - (iii) the kind of private hire vehicle service that the private hire vehicle may be used to provide.
- (2) Without limiting the generality of subclause (1) (a), circumstances of the kind referred to in that subclause may include circumstances in which the service is to be provided in a fringe area of a transport district or outside such a district.

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Clause 202

Special provisions relating to tourist service vehicles

Part 10

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## Part 10 Special provisions relating to tourist service vehicles

### Division 1 General

#### 202 Tourist services

- (1) For the purposes of the definition of *tourist service* in section 3 of the Act, the following vehicles are prescribed kinds of vehicles (and, when used to provide a tourist service, are *tourist service vehicles* for the purposes of this Regulation):
  - (a) four-wheel drive vehicles,
  - (b) motor cycles.
- (2) For the purposes of section 6 of the Act:
  - (a) a tourist service vehicle is to be taken to be a public passenger vehicle for the purposes of the Act, and
  - (b) the provisions of the Act apply to all tourist service vehicles.
- (3) A person must not operate, or drive, a vehicle as a tourist service vehicle unless the vehicle is a bus, a ferry, a four-wheel drive vehicle or a motor cycle.

Maximum penalty: 20 penalty units.

#### 203 Only tourists to be carried

- (1) The operator of a tourist service, and the driver of the tourist service vehicle used in the provision of a particular tour by the service, must not allow a person to be carried as a passenger in or on the tourist service vehicle if the operator or driver concerned has reason to believe that the person is not a tourist.

Maximum penalty: 10 penalty units.
- (2) Subclause (1) does not apply to a person who is carried in connection with the provision of the relevant tour (such as a relief driver, cook, guide or interpreter).

### Division 2 Motor cycle tourist services

**Note.** For the meanings of "LC vehicle", "LD vehicle" and "LE vehicle", see the definition of *motor cycle* in clause 3 (1).

#### 204 Certain kinds of motor cycles required for unsealed roads

If a tour offered by a motor cycle tourist service operator involves the carriage of passengers on any part of an unsealed road, the operator of the service, and the driver of the motor cycle to be used in the provision

Clause 205	Passenger Transport Regulation 2007
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of the tour, must ensure that the motor cycle concerned is either an LD vehicle or an LE vehicle.

Maximum penalty: 5 penalty units.

**205 Specifications for certain motor cycles**

The operator of a motor cycle tourist service must ensure that any LC vehicle used to provide the service:

- (a) does not have a two-stroke engine, and
- (b) does not have an engine capacity of less than 500 cc, and
- (c) is not designed for agricultural use, trail riding, off-road use or racing, and
- (d) is fitted with side guards or crash bars of sufficient strength to support the motor cycle clear of the ground, with enough space to safeguard legs, if the motor cycle falls over or slides on its side.

Maximum penalty: 10 penalty units.

**206 Protective clothing to be available for passengers on motor cycles**

- (1) The operator of a motor cycle tourist service must ensure that the following equipment is available for use by prospective passengers:
    - (a) full-face crash helmets with visors,
    - (b) riding gloves,
    - (c) protective jackets,
    - (d) boots or gaiters.
  - (2) The equipment must be clean, undamaged and available in a range of sizes and sufficient quantities, having regard to the number of passengers that the service is capable of carrying at any particular time.
- Maximum penalty: 5 penalty units.

**207 Pillion passengers on motor cycles**

- (1) The operator of a motor cycle tourist service must ensure that the driver of any LC vehicle or LD vehicle used to provide the service has sufficient competence and experience to carry pillion passengers safely.
- (2) The driver of an LC vehicle or LD vehicle must ensure that a pillion passenger:
  - (a) wears fully-enclosed leather shoes or boots, or fully-enclosed non-leather shoes and gaiters, and
  - (b) is fully clothed, including having the arms and legs covered, and
  - (c) is instructed in the following:
    - (i) the correct fitting of helmets and other protective clothing,

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Clause 208

Special provisions relating to tourist service vehicles

Part 10

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- (ii) the use of footrests and leaning while the motor cycle is in motion,
  - (iii) the method of communicating with the driver.

Maximum penalty: 5 penalty units.

**208 Motor cycle headlight to be on**

The driver of a motor cycle must ensure that the headlight of the motor cycle is illuminated at all times during which the motor cycle is being used to provide a tourist service.

Maximum penalty: 5 penalty units.

**Division 3 Four-wheel drive tourist services**

**209 Four-wheel drive vehicles not to be used wholly on sealed roads**

The following persons must ensure that at least part of each tour offered by a four-wheel drive tourist service involves the carriage of passengers on a surface other than a sealed road:

- (a) the operator of the tourist service,
- (b) in relation to a particular tour—the driver of the four-wheel drive vehicle used to provide the service.

Maximum penalty: 5 penalty units.

**210 Emergency equipment for four-wheel drive vehicles**

- (1) The operator of a four-wheel drive vehicle must ensure that, while the vehicle is being used to provide a tour that involves the carriage of passengers over more than 80 unbroken kilometres on a surface other than a sealed road, it carries adequate and appropriate emergency equipment.

Maximum penalty: 5 penalty units.

- (2) For the purposes of subclause (1), the equipment to be carried includes (but is not limited to) the following:
  - (a) a radio transceiver or mobile telephone,
  - (b) spare fuel and drinking water,
  - (c) a fire extinguisher,
  - (d) a first aid kit,
  - (e) a tow rope,
  - (f) a winch or recovery strap,
  - (g) a high-lift jack or a long-handled shovel.

Clause 211 Passenger Transport Regulation 2007

Part 11 Special provisions relating to ferries

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## **Part 11 Special provisions relating to ferries**

### **Division 1 Ferry operators**

#### **211 Condition of ferries**

The operator of a regular ferry service must not allow a ferry to be used in the service unless it is clean and tidy.

Maximum penalty: 5 penalty units.

#### **212 Records in relation to operation of ferry**

A person who is or has been the operator of a regular ferry service:

- (a) must keep in the English language any record required to be kept by the person under the Act or this Regulation, and
- (b) must retain the record for a period of at least 2 years after the date of the last entry in it, and
- (c) must, on demand by an authorised officer, produce the record for inspection, and
- (d) must, if required by the Director-General in writing to do so, deliver the record to the Director-General when required.

Maximum penalty: 10 penalty units.

#### **213 Notification of accidents and incidents**

- (1) An operator of a ferry service who becomes aware that a ferry being used to provide the service has been involved in an accident or incident must notify the regulator and the Chief Investigator of the accident or incident, in accordance with this clause, if the accident or incident:
  - (a) involved or resulted in any one or more of the following:
    - (i) a person being injured,
    - (ii) a person falling from the ferry,
    - (iii) the loss, presumed loss or abandonment of the ferry,
    - (iv) a collision involving the ferry,
    - (v) the grounding, sinking, flooding or capsizing of the ferry,
    - (vi) a fire or explosion on board the ferry,
    - (vii) a loss of stability affecting the safety of the ferry,
    - (viii) the structural stability of the ferry, or
  - (b) is, in the reasonable opinion of the operator of the service, otherwise likely to arouse serious public concern.

Passenger Transport Regulation 2007

Clause 214

Special provisions relating to ferries

Part 11

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- (2) A notification under subclause (1):
- (a) must be given as soon as practicable after the operator becomes aware of the accident or incident concerned, and
  - (b) in the case of notification to the regulator, be given by telephone and in writing no later than 24 hours after the operator becomes aware of the accident or incident concerned, and
  - (c) must contain the following information:
    - (i) the name of the ferry,
    - (ii) the name and contact details of the ferry master,
    - (iii) the accredited service operator for the ferry, and if the operator is a corporation the name and contact details of a responsible person,
    - (iv) details of the accident or incident.
- (3) Nothing in this clause affects any other requirement on a person to report an accident involving a vessel.

## **Division 2      Ferry masters**

### **214    Ferry master to observe timetable**

The ferry master on a regular ferry service must operate the ferry in accordance with the timetable and the route for the service as identified and published by the ferry operator.

Maximum penalty: 5 penalty units.

### **215    Ferry master not to smoke on ferry**

The ferry master must not smoke on the ferry.

Maximum penalty: 5 penalty units.

### **216    Ferry master not to damage ferry**

The ferry master must not maliciously damage any part of the ferry or its fittings or equipment.

Maximum penalty: 5 penalty units.



Clause 217 Passenger Transport Regulation 2007

Part 12 Penalty notices

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## Part 12 Penalty notices

### 217 Penalty notice offences

- (1) For the purposes of section 59 of the Act:
  - (a) each offence created by a provision specified in Column 1 of Schedule 3 is declared to be a penalty notice offence, and
  - (b) the prescribed penalty for such an offence is as follows:
    - (i) the amount specified in Column 2 of Schedule 3, unless subparagraph (ii) applies,
    - (ii) in the case of an offence for which an amount is specified in Column 3 of Schedule 3, and that is an offence committed in the Sydney Airport precinct, the amount specified in Column 3 of Schedule 3.
- (2) If the reference to a provision in Column 1 of Schedule 3 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

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Clause 218

Special provisions relating to arbitrations under clause 39 of Schedule 3 to Act

Part 13

## Part 13 Special provisions relating to arbitrations under clause 39 of Schedule 3 to Act

### Division 1 General

#### 218 Interpretation

- (1) In this Part:

*Arbitration Act* means the *Commercial Arbitration Act 1984*.

*arbitrators panel list* means the list of persons compiled under clause 221.

*arbitrators panel member* means a person whose name is included in the arbitrators panel list for the time being.

*Association* means the Bus and Coach Association of New South Wales.

*award* means an award made by the arbitrator under the Arbitration Act (as modified by clause 227).

*valuation arbitration* means an arbitration under clause 39 of Schedule 3 to the Act.

*working day* means any day that is not a Saturday, Sunday or public holiday.

- (2) Words and expressions used in this Part that are defined in clauses 27 and 39 of Schedule 3 to the Act or in the Arbitration Act have the same meanings as in those Acts, except in so far as the context or subject-matter otherwise indicates or requires.

#### 219 Application of Arbitration Act to valuation arbitrations

- (1) For the purposes of clause 39 (4) and (5) of Schedule 3 to the Act, the application of the Arbitration Act is modified in accordance with this Part.
- (2) The provisions of this Part are to be read as if they formed part of the Arbitration Act and any reference in that Act to an arbitration agreement is taken to be a reference to the requirements of this Part.

### Division 2 Appointment of arbitrators

#### 220 Modification of Arbitration Act in relation to appointment of arbitrators

This Division applies instead of Part 2 (Appointment of arbitrators and umpires) of the Arbitration Act.

Clause 221	Passenger Transport Regulation 2007
Part 13	Special provisions relating to arbitrations under clause 39 of Schedule 3 to Act

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## 221 Arbitrators panel

- (1) The Director-General is to compile a list of one or more persons (the *arbitrators panel list*) considered by the Director-General to be suitable to be arbitrators for the purposes of valuation arbitrations.
- (2) The Director-General may include a person in the arbitrators panel list only if:
  - (a) the Director-General is satisfied that the person has demonstrated experience in the bus industry or other transport industry and, in particular, in the valuation of bus service assets or similar kinds of assets, and
  - (b) the person consents to being included in the list, and
  - (c) the Director-General has given the Association written notice of the person's name and qualifications for appointment (an *inclusion notice*), and
  - (d) the Association has given the Director-General its written consent to the person's inclusion in the list.
- (3) For the purposes of subclause (2) (d), the Association is taken to have consented to a person's inclusion in the arbitrators panel list if the Association fails, within 7 working days after receiving an inclusion notice, to inform the Director-General in writing about whether or not it consents to the person's inclusion in the list.
- (4) The Director-General may, in consultation with the Association, amend or revoke the arbitrators panel list.

## 222 Appointment of arbitrators to conduct valuation arbitrations

- (1) The Director-General may appoint a person who is an arbitrators panel member to be the arbitrator in a valuation arbitration if:
  - (a) an existing service provider (the *applicant*) has made an application to the Director-General under clause 39 (2) of Schedule 3 to the Act in respect of a bus service asset, and
  - (b) the existing service provider has provided such details concerning the bus service asset as the Director-General considers necessary to identify the asset.
- (2) The power to appoint an arbitrator conferred by subclause (1) extends to the appointment of a new arbitrator in place of an arbitrator who dies or otherwise ceases to hold office.
- (3) The Director-General must, within 10 working days after receiving the application, decide whether to refer the valuation of the bus service asset in question for a valuation arbitration and give the applicant:

Passenger Transport Regulation 2007

Clause 223

Special provisions relating to arbitrations under clause 39 of Schedule 3 to Act

Part 13

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- (a) if the Director-General decides to refer the valuation of the bus service assets for a valuation arbitration—written notice of the following:
    - (i) that the Director-General has decided to refer the valuation for arbitration,
    - (ii) the name of the arbitrator to be appointed by the Director-General to conduct the valuation arbitration, or
  - (b) if the Director-General decides not to refer the valuation of the bus service asset for a valuation arbitration—written notice of that decision.

### **Division 3 Conduct of valuation arbitrations**

#### **223 Parties to valuation arbitration**

In its application to a valuation arbitration, references (however expressed) in the Arbitration Act (as modified by this Part) to the parties or any party is to be read as a reference to the following:

- (a) the existing service provider who has made an application to the Director-General under clause 39 (2) of Schedule 3 to the Act in respect of the bus service asset in question in the valuation arbitration,
- (b) the proposed new service provider to whom the existing service provider wishes to sell or otherwise dispose of the bus service asset.

#### **224 Commencement of valuation arbitrations**

An arbitrator must commence the valuation arbitration within 7 working days (or such further period as the parties may agree or, in the absence of such an agreement, as the Director-General may allow) after the arbitrator's appointment.

**Note.** Section 14 of the Arbitration Act provides that, subject to that Act and the provisions of the arbitration agreement (which is taken to be this Part by clause 219 (2)) the arbitrator in a valuation arbitration may conduct the proceedings in such manner as the arbitrator thinks fit.

#### **225 Duties of parties**

Without limiting the duties of the parties to a valuation arbitration under section 37 of the Arbitration Act:

- (a) the applicant must make the bus service assets in question available for inspection by the arbitrator at the times and places requested by the arbitrator, and

Clause 226	Passenger Transport Regulation 2007
Part 13	Special provisions relating to arbitrations under clause 39 of Schedule 3 to Act

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- (b) each party must not provide the arbitrator with any document or other information that is false or misleading in a material particular.

#### 226 Valuation principles

- (1) In determining the valuation of any bus service assets in question in a valuation arbitration, the arbitrator must apply the following principles:
- (a) the valuation of the asset must be determined by reference to the market value of the asset having regard to the following:
    - (i) the price that a willing, but not anxious, purchaser would be prepared to pay for the asset for use in the provision of a regular bus service,
    - (ii) the price that a willing, but not anxious, vendor would accept as payment for the asset,
  - (b) the asset's value to the applicant as a going concern must be included in the valuation,
  - (c) the value of any intellectual property of the applicant (such as logos and trademarks) used in connection with the asset must not be included in the valuation.
- Note.** The term **bus service asset** is defined in clause 39 (1) of Schedule 3 to the Act to exclude any goodwill. Accordingly, an arbitrator in a valuation arbitration will not be able to take into account the value of any goodwill.
- (2) This clause prevails over the provisions of section 22 of the Arbitration Act to the extent of any inconsistency.

#### 227 Nature of awards that can be made

- (1) An award (whether or not final) made in a valuation arbitration must be limited to the determination of the valuation of the bus service assets in question.
- (2) The following provisions of the Arbitration Act do not apply with respect to an award or arbitrator in a valuation arbitration:
- (a) section 24 (Specific performance),
  - (b) section 31 (Interest up to making of award),
  - (c) section 32 (Interest on debt under award).

#### 228 Draft award to be provided to parties for comment

- (1) The arbitrator in a valuation arbitration may not make a final award in the arbitration unless the arbitrator has provided the parties to the arbitration with a draft award for comment in accordance with this clause.

Passenger Transport Regulation 2007

Clause 229

Special provisions relating to arbitrations under clause 39 of Schedule 3 to Act

Part 13

- (2) The arbitrator must provide the parties with a draft award for comment within 15 working days (or such further period as the parties may agree or, in the absence of such an agreement, as the Director-General may allow) after the conclusion of the arbitration hearing.
- (3) The arbitrator must provide the parties with an opportunity to make written submissions concerning the draft award within a period (being a period of not less than 5 working days) specified by the arbitrator (the *submission period*) following the giving of the draft award.
- (4) The parties to a valuation arbitration in which a draft award has been given may make written submissions to the arbitrator concerning the draft award, but only if the submissions are made within the submission period.
- (5) Any party that makes a written submission during the submission period must provide the other party with a copy of the submission as soon as is reasonably practicable after making the submission.
- (6) This clause prevails over the provisions of the Arbitration Act concerning the making of awards to the extent of any inconsistency.

#### **229 Final awards**

- (1) The arbitrator in a valuation arbitration must provide the parties with a final award within 5 working days (or such further period as the Director-General may allow) after the expiry of the submission period for the draft award referred to in clause 228.
- (2) In making a final award in a valuation arbitration, the arbitrator:
  - (a) must take into account any written submissions made by the parties under clause 228 within the submission period, and
  - (b) must not take into account any written submissions made by the parties after the expiry of the submission period.
- (3) The arbitrator must provide the Director-General with a copy of the final award as soon as is reasonably practicable after making the award.
- (4) Without limiting clause 39 (6) of Schedule 3 to the Act, and subject to any review under section 38 of the Arbitration Act, the Director-General should endeavour to make a decision as to whether or not to require the proposed new service provider to acquire any bus service assets that have been the subject of a final award in a valuation arbitration at the determined valuation within 7 working days after receiving a copy of the final award.
- (5) This clause prevails over the provisions of the Arbitration Act concerning the making of awards to the extent of any inconsistency.

Clause 230	Passenger Transport Regulation 2007
Part 13	Special provisions relating to arbitrations under clause 39 of Schedule 3 to Act

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**230 Costs**

- (1) The fees and expenses of the arbitrator in a valuation arbitration are to be borne jointly by the parties to the arbitration.
- (2) Any other costs incurred by a party to the arbitration are to be borne by that party.
- (3) This clause applies instead of sections 34 and 36 of the Arbitration Act.

**231 Early termination of valuation arbitration**

- (1) If the applicant in a valuation arbitration withdraws the application made to the Director-General under clause 39 (2) of Schedule 3 to the Act in respect of the bus service assets in question before the conclusion of the arbitration, the arbitrator must terminate the arbitration as soon as the arbitrator receives a written notice from the Director-General to that effect.
- (2) Nothing in this clause affects the operation of clause 230.
- (3) This clause prevails over section 18 of the Arbitration Act and any other provision of that Act to the extent of any inconsistency.

Passenger Transport Regulation 2007

Clause 232

Miscellaneous

Part 14

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## Part 14 Miscellaneous

### 232 Non-compliance labels and notices

- (1) An authorised officer carrying out an inspection, under Division 2 of Part 4C of the Act, of a vehicle used for the purposes of a public passenger service may affix a label (a *non-compliance label*) to the vehicle if it appears to the authorised officer that the vehicle does not meet the following requirements:
  - (a) in the case of any vehicle—the requirements set out in clause 17,
  - (b) if the vehicle is a taxi-cab—the additional requirements set out in clause 125,
  - (c) if the vehicle is a private hire vehicle—the additional requirements set out in a notice issued under clause 187.
- (2) The authorised officer is to issue a notice (a *non-compliance notice*) to the operator of the vehicle concerned.
- (3) A non-compliance label and a non-compliance notice must specify:
  - (a) the action necessary to be taken in order for the vehicle to meet the relevant requirements, and
  - (b) an expiry date after which the vehicle must not be used to provide a public passenger service unless the label concerned has been removed by an authorised officer.
- (4) An authorised officer may remove a non-compliance label from a vehicle if satisfied on inspection of the vehicle that the necessary action specified in the label or notice has been taken.
- (5) A person must not remove a non-compliance label from a vehicle unless the person is an authorised officer (or is authorised in writing to do so by an authorised officer).  
Maximum penalty: 10 penalty units.

### 233 No touting or soliciting for passengers or hirings

- (1) A person must not tout or solicit for passengers for, or for a hiring of, a public passenger vehicle.  
Maximum penalty: 50 penalty units (in the case of an offence committed in the Sydney Airport precinct) or 5 penalty units (in any other case).



Clause 234 Passenger Transport Regulation 2007

Part 14 Miscellaneous

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- (2) The operator or driver of a public passenger vehicle must not, by the operator's or driver's employee, agent or contractor, tout or solicit for passengers for, or for a hiring of, a public passenger vehicle.

Maximum penalty: 50 penalty units (in the case of an offence committed in the Sydney Airport precinct) or 5 penalty units (in any other case).

### **234 False advertising**

- (1) A person must not advertise, or otherwise represent, that the person:
- (a) is accredited under the Act to carry on a public passenger service of a particular kind, or
  - (b) holds an authority of a particular category under the Act, or
  - (c) is authorised by the Director-General to inspect, test and assess taxi-cabs for compliance with the *Manual of Inspection Standards for Taxi-Cabs*, or
  - (d) carries on a public passenger service by means of a vehicle that is licensed under the Act for the purposes of a public passenger service of a particular kind,
- unless the person is so accredited or authorised, or the vehicle concerned is so licensed (as the case may be).
- (2) A person must not display a sign to the effect, or otherwise represent, that particular premises constitute an authorised taxi-cab inspection station unless the premises concerned constitute such an inspection station.

Maximum penalty: 20 penalty units.

### **235 Change of name or address of operator or driver**

- (1) An accredited operator or an authorised driver who changes his or her (or, in the case of an accredited operator that is a corporation, its) name or residential address must, within 7 days after the change, give written notice of the change and of the new name or address to the Director-General.
- Maximum penalty: 5 penalty units.
- (2) The authorised driver must also give the written notice required by subclause (1) to the operator of each of the public passenger vehicles that the driver drives.
- Maximum penalty: 5 penalty units.

Passenger Transport Regulation 2007

Clause 236

Miscellaneous

Part 14

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**236 Additional agencies with whom regulator may exchange information**

The following agencies are prescribed for the purposes of section 53 (6) (c) of the Act:

- (a) the NSW Police Force,
- (b) the RTA,
- (c) the Independent Transport Safety and Reliability Regulator constituted under the *Transport Administration Act 1988*.

**237 Exemptions**

- (1) The Director-General may, by order in writing, exempt a person or a vehicle, or a class of persons or vehicles, from all or any of the provisions of the Act or any regulation under the Act.
- (2) An exemption under this clause may be expressed to be conditional on the observance of certain conditions specified in the exemption and, if the exemption is given in those terms, it ceases to have effect if the conditions are not observed.
- (3) Notice of an exemption given under this clause is to be given by the Director-General in such manner as the Director-General considers appropriate in the circumstances of the case.

**238 Service of notices**

Any notice required to be served or given under this Regulation is sufficiently served on any person if it is:

- (a) served personally, or
- (b) left at the last known place of residence or business of the person to be served, or
- (c) sent by prepaid letter or post to the person at the person's last known place of residence or business (in which case notice is to be taken to be served on the date on which the letter would in the ordinary course of post be delivered to the place to which it is addressed).

**239 Authorised officers**

For the purposes of section 46W (1) of the Act, the following classes of persons are prescribed:

- (a) police officers,
- (b) persons employed in the Roads and Traffic Authority Division or the State Transit Authority Division of the Government Service within the meaning of the *Public Sector Employment and Management Act 2002*,

Clause 240 Passenger Transport Regulation 2007

Part 14 Miscellaneous

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- (c) persons holding an examiner's authority that is in force under regulations made under the *Road Transport (Vehicle Registration) Act 1997*.

#### **240 Savings**

Any act, matter or thing that had effect under any of the following Regulations immediately before the repeal of the Regulation concerned is taken to have effect under this Regulation:

- (a) the *Passenger Transport (Bus Services) Regulation 2000*,
- (b) the *Passenger Transport (Ferry Services) Regulation 2000*,
- (c) the *Passenger Transport (General) Regulation 2000*,
- (d) the *Passenger Transport (Private Hire Vehicle Services) Regulation 2001*,
- (e) the *Passenger Transport (Taxi-cab Services) Regulation 2001*.

Passenger Transport Regulation 2007

Approved security camera systems

Schedule 1

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## Schedule 1 Approved security camera systems

(Clauses 82 (3) and 114 (4))

### 1 Definitions

In this Schedule:

**authorised purpose**, in relation to the use of a video recording made by a security camera system fitted in or to a bus or a taxi-cab, means the purpose of, or any purpose in connection with, any of the following:

- (a) an activity referred to in section 18 (a)–(d) of the *Workplace Surveillance Act 2005*,
- (b) the prosecution of, or the issue of a penalty notice in respect of, an offence under the Act, this Regulation or the *Crimes Act 1900* committed in or about a bus or a taxi-cab,
- (c) ensuring an operator's compliance with the operator's conditions of accreditation,
- (d) ensuring a driver's compliance with the driver's conditions of authorisation,
- (e) ensuring a passenger's compliance with any approved scheme of subsidised travel (as referred to in section 39 of the *Transport Administration Act 1988*).

**vehicle** means a bus or a taxi-cab.

**video recording** includes:

- (a) any electronically stored information from which a recorded image can be generated, and
- (b) any print-out or other reproduction of the recorded image.

### 2 Use of recording for unauthorised purpose

A person must not use a video recording made by a security camera system for a purpose other than an authorised purpose.

Maximum penalty: 20 penalty units.

### 3 Presence of camera in vehicle to be indicated

The operator of a bus or taxi-cab service must ensure that signs are conspicuously placed within and on the outside of a bus or taxi-cab (as appropriate) that is fitted with a security camera system, advising persons that they may be under video surveillance while in or about the bus or taxi-cab concerned.

Maximum penalty: 5 penalty units.

## Passenger Transport Regulation 2007

Schedule 1 Approved security camera systems

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**4 Storage of recordings made by security camera**

The operator of a bus or taxi-cab service must cause:

- (a) such security safeguards as the Director-General may specify from time to time by notice published in the Gazette in relation to a bus service or a taxi-cab service (or both a bus service and a taxi-cab service), and
- (b) such other security safeguards as are reasonable in the circumstances,

to be taken, to ensure that any video recordings made by a security camera system are protected against misplacement and against use for unauthorised purposes, until disposed of in accordance with clause 5.

Maximum penalty: 5 penalty units.

**5 Disposal of recordings made by security camera**

- (1) The operator of a bus or taxi-cab service must cause any video recording made by a security camera system to be disposed of in accordance with subclause (2) within 30 days after the recording was made.

Maximum penalty: 5 penalty units.

- (2) The recording may be disposed of by destroying it by deletion or otherwise or, if it is to be used for an authorised purpose, by giving it to:
  - (a) a police officer, or
  - (b) an officer of the Department authorised by the Director-General to receive it.
- (3) It is the duty of the Commissioner of Police or the Director-General (as the case requires) to ensure the destruction of any video recording that was given to a police officer or to an officer of the Department and which is no longer to be used for an authorised purpose.
- (4) Subclause (1) does not apply in respect of a video recording made during the installation or testing of the security camera.

**6 Relationship with Workplace Surveillance Act 2005**

Nothing in this Schedule affects the operation of the *Workplace Surveillance Act 2005*.

Passenger Transport Regulation 2007

Standards for taxi-meters

Schedule 2

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## Schedule 2 Standards for taxi-meters

(Clause 111)

### Part 1 Components of meters

#### 1 Components

- (1) A taxi-meter:
  - (a) must be constructed of durable materials, and
  - (b) must have a unique identification number that is permanently stamped or otherwise marked on it, and
  - (c) must be provided with attachments that enable it to be installed as required by Part 2 (Location and installation of meters), and
  - (d) must be capable of displaying the authorised fare as required by Part 3 (Recording and display of meters), and
  - (e) must have suitable holes or lugs at each point at which disassembly or adjustment is possible so as to permit sealing of the meter as required by Part 4 (Sealing of meters).
- (2) There must be provision for illumination of the face of the meter.

#### 2 New taxi-meters

A taxi-meter that is installed for the first time on or after the commencement of this clause:

- (a) must include a sealed clock (capable of automatic adjustment for daylight saving for the purposes of the night-time surcharge) and calendar that are capable of activating, at a particular time and date, any fares that have been programmed into the meter, and
- (b) must be capable of storing post-dated fare changes to be activated at a designated time and date.

**Note.** This clause reflects an administrative requirement that has been in place since March 2007.

#### 3 Operation of taxi-meters

- (1) A taxi-meter (other than a taxi-meter that is installed for the first time on or after the commencement of clause 2) may be operated either mechanically or electronically.
- (2) Each part of the controlling mechanism of the meter must be in sound working condition.

## Passenger Transport Regulation 2007

Schedule 2 Standards for taxi-meters

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**Part 2 Location and installation of meters****4 Location of meter: general**

- (1) A taxi-meter must be securely fixed to the instrument panel of the taxi-cab on the left side of the driver's seating position.
- (2) The meter must face the interior of the taxi-cab.
- (3) The controls of the meter must be within easy reach of the driver.

**5 Meter not to cause danger or obstruction**

- (1) A taxi-meter must not be located in any position, or installed in any way, in which it is likely to cause injury to the driver or any passenger during normal operation of the taxi-cab or in the event of severe acceleration or deceleration.

**Note.** See *Vehicle Standard (Australian Design Rule 21/00—Instrument Panel) 2006* in the Federal Register of Legislative Instruments of the Commonwealth. The function of that Rule is to specify requirements for instrument panels of vehicles so as to reduce their injury potential to occupants on impact.

- (2) The meter and its associated equipment must not obstruct or otherwise interfere with the operation of the taxi-cab's driving controls.

**6 Identification number of meter to be visible**

A taxi-meter must be so located and installed that its identification number (as required by clause 1 (1) (b)) is visible without any necessity to remove or dismantle the meter.

**7 Meter to be accessible for fixing and inspection of seals**

A taxi-meter must be so located and installed that the seals required by Part 4 may be fixed and inspected without any necessity to use tools to remove the meter or any of its panels or covers.

**8 Connection of meter**

- (1) If a taxi-meter is electrically operated, it must be connected in such a way that power is supplied to the meter whenever power is supplied to the ignition system of the taxi-cab (or, if the taxi-cab has a diesel engine, whenever fuel is available to the combustion chamber of the engine).
- (2) The meter may be directly wired to the taxi-cab's battery, but only if there is no switch in the part of the circuit connecting the meter and the battery.

Passenger Transport Regulation 2007

Standards for taxi-meters

Schedule 2

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### **Part 3 Recording and display of meters**

#### **9 Recording and increments of fare**

- (1) A taxi-meter must display the authorised fare for any hiring of the taxi-cab.
- (2) The meter is to record and indicate increments in the fare in units of not more than 10 cents.
- (3) The meter must not, at any time, compute or display a fare that exceeds the authorised fare.

#### **10 Appearance of meter**

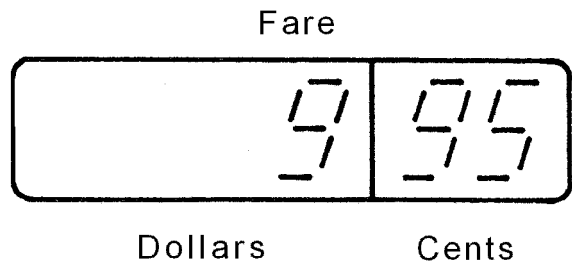
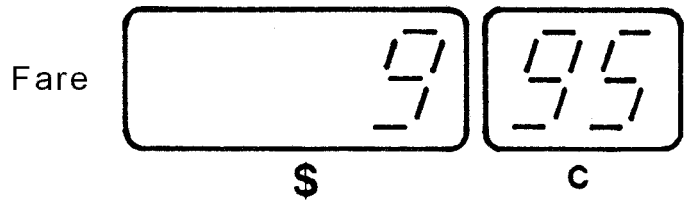
- (1) A taxi-meter must display the word "Fare", together with words or numerals (or both) indicating the amount of the authorised fare and its division into dollars and cents, prominently on the face of the meter in any of the ways shown in Figure 1 following this subclause.



Passenger Transport Regulation 2007

Schedule 2 Standards for taxi-meters

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- (2) Any words or numerals indicating anything other than the authorised fare, and displayed in such a manner as may be construed to be a fare, must not be displayed continuously for any period exceeding eight seconds at a time.
- (3) It is sufficient compliance with subclause (2) if the display flashes on and off at a rate of at least 60, but not more than 120, cycles per minute after having been displayed continuously for a period not exceeding eight seconds.

Passenger Transport Regulation 2007

Standards for taxi-meters

Schedule 2

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### 11 Stopping of meter

- (1) The design and construction of a taxi-meter must be such that, if the meter is stopped, the meter:
  - (a) will continue to display any fare then registered, and
  - (b) will not be capable of computing any additional fare until it is restarted.
- (2) If the meter is restarted, the meter:
  - (a) must add any fare computed after the restart to the original fare, and
  - (b) display the total fare.

### 12 Accuracy of meter

- (1) A taxi-meter must be proofed against inaccuracies that could arise from any external sources, including fluctuations in its electrical supply, electromagnetic radiation and magnetic fields.
- (2) The accuracy of the fare display must be such that, when the meter is tested in accordance with Part 5:
  - (a) in the case of a moving taxi-cab—the authorised fare for the length of the test course (consisting of the distance rate for that length, plus the flag fall, specified in, or calculable from, the notice under section 60A of the Act that is current at the time of the test) is first displayed on the meter at the point within the section of the test course bounded by the course's "Finish" and "1% Slow" marks, and
  - (b) in the case of a taxi-cab that is on hire but stationary—the meter displays a fare that is the pro rata equivalent (with 5% tolerance in favour of a notional hirer), when measured to the nearest second, of the amount per hour specified for waiting time in the notice under section 60A of the Act that is current at the time of the test, plus the flag fall specified in, or calculable from, that notice.

## Part 4 Sealing of meters

### 13 Requirement for sealing

A taxi-meter (regardless of when installed) must be lead-sealed in accordance with this Part.

Passenger Transport Regulation 2007

Schedule 2 Standards for taxi-meters

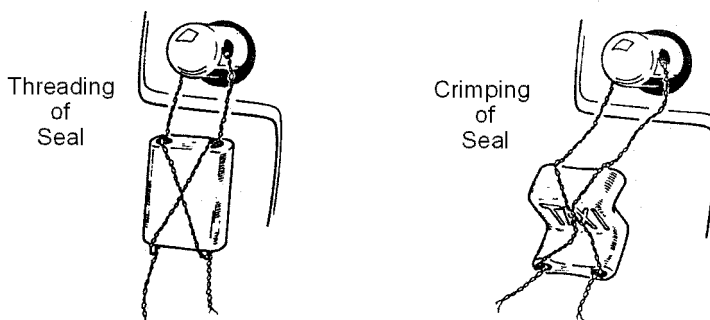
**14 Seal to be visible**

Although more than one seal may be needed to satisfy the requirements of this Part, at least one such seal must be visible to a passenger sitting in the front of the taxi-cab.

**15 Method of sealing**

A taxi-meter must be sealed in the following way (as illustrated by the drawings in Figure 2 to this clause):

- (a) a length of two-strand, twisted copper (or equivalent) wire must be stretched to remove any kinks,
- (b) the wire must then be threaded through the appropriate holes in, or around the appropriate lugs on, the meter and its connections so as to prevent:
  - (i) any interference with the fare display or fare schedule appropriate to the taxi-cab's area of operation or calibration, and
  - (ii) the removal of the meter from the taxi-cab, without breaking the seal or sealing wire,
- (c) a standard-issue lead seal must then be threaded onto the wire and the wire crossed over and rethreaded,
- (d) the seal must then be crimped with sealing pliers approved by the Director-General so that the wire cannot be released without damaging the seal.



**16 Resealing**

If a seal or any sealing wire is damaged or removed from a taxi-meter for any reason, the meter must be retested in accordance with Part 5 and resealed in accordance with this Part.

Passenger Transport Regulation 2007

Standards for taxi-meters

Schedule 2

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## Part 5 Testing of meters

### Division 1 Course to be used for testing taxi-meters

#### 17 Location of course

The course to be used to test taxi-meters:

- (a) must start within 200 metres of premises on which a person who carries on the business of repairing and sealing taxi-meters conducts that business, and
- (b) must be on sealed roads only, and
- (c) must avoid, as far as possible, shopping centres and areas of high traffic density.

#### 18 Components of course

The course must include the following:

- (a) a designated taxi-meter test “Start” mark,
- (b) a designated taxi-meter test “Finish” mark that is not less than one kilometre from the “Start” mark,
- (c) a designated taxi-meter test “1% Slow” mark that is located at the point beyond the “Finish” mark at which an accurate taxi-meter would first display the authorised fare for the length of the test course after the taxi-cab passes the “Finish” mark but before the “1% Slow” mark.

#### 19 Length of testing course

The part of the course between the “Start” mark and the “Finish” mark (the *testing course*) must be at least one kilometre long.

#### 20 Other requirements of course

The course must also:

- (a) have as few turns as possible, and
- (b) contain the same number of left-turns and right-turns, and
- (c) have the marks required by clause 18 situated:
  - (i) at least 15 metres from any intersection, and
  - (ii) at least 3 metres from any driveway or obstruction, and
  - (iii) otherwise in a position that is not likely to cause traffic congestion or constitute a traffic hazard, and
- (d) have the “Finish” and “1% Slow” marks situated on the same straight section of road.

## Passenger Transport Regulation 2007

Schedule 2 Standards for taxi-meters

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**Division 2 Meter testing****21 Meter to be tested for all tariffs**

If the taxi-cab meter provides for different tariffs according to different circumstances, the meter must be tested in respect of each of the tariffs concerned.

**22 Testing computation of fare for distance**

- (1) A taxi-meter's computation of the fare for distance travelled is to be tested as follows:
  - (a) the taxi-cab must be stationary with its front wheel centres in line with the "Start" mark of the test course,
  - (b) the meter must then be started and the taxi-cab set in motion,
  - (c) the taxi-cab is to be driven over the testing course as nearly as possible at a constant speed, without skidding or wheel-spin or violent acceleration or deceleration, and avoiding divergences such as lane-changing and overtaking,
  - (d) as the taxi-cab approaches the "Finish" mark, the meter must be monitored and the point at which the authorised fare for the length of the testing course is first displayed must be noted.
- (2) If the meter first displays the authorised fare for the length of the testing course at any point other than while the taxi-cab is between the "Finish" mark and the "1% Slow" mark, the meter has failed the test and:
  - (a) a non-compliance notice must be issued in respect of the taxi-cab concerned, and
  - (b) the meter must be recalibrated and resealed.

**23 Testing computation of fare for waiting time**

- (1) A taxi-meter's computation of the fare to be charged for waiting time is to be tested as follows:
  - (a) the taxi-cab must be stationary,
  - (b) the meter must then be started and a stopwatch set in motion,
  - (c) the time (measured to the nearest second) taken for the meter to display a fare that is equivalent to the authorised fare for the length of the testing course must be noted.
- (2) If the fare noted is other than the pro rata equivalent (with 5% tolerance in favour of a notional hirer) of the amount per hour specified for waiting time in the notice under section 60A of the Act that is current at the time of the test:
  - (a) the meter has failed the test, and

Passenger Transport Regulation 2007

Standards for taxi-meters

Schedule 2

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- (b) a non-compliance notice must be issued in respect of the taxi-cab concerned, and
- (c) the meter must be recalibrated and resealed.

## Passenger Transport Regulation 2007

## Schedule 3 Penalty notice offences

**Schedule 3 Penalty notice offences**

(Clause 217)

**Part 1 Offences under Passenger Transport Act 1990**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Section 9B (3)	\$500	
Section 11 (1)	\$200	
Section 30 (1) (a)	\$1,000	
Section 30 (1) (b)	\$1,000	
Section 31D (3)	\$500	
Section 33 (2)	\$500	
Section 34D (3)	\$1,000	
Section 37 (1) (a)	\$1,000	
Section 37 (1) (b)	\$1,000	
Section 38D (3)	\$500	
Section 40 (2)	\$500	
Section 53B (1)	\$500	
Section 53B (2)	\$500	
Section 56	\$300	

**Part 2 Offences under this Regulation**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Clause 17	\$200	
Clause 19	\$200	
Clause 20 (1)	\$200	

## Passenger Transport Regulation 2007

## Penalty notice offences

Schedule 3

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Clause 21	\$200	
Clause 22	\$300	
Clause 25	\$1,000	
Clause 26	\$200	
Clause 32 (a)	\$100	
Clause 32 (b)	\$200	
Clause 32 (c)	\$300	
Clause 32 (d)	\$300	
Clause 35	\$100	
Clause 36 (1) (a)	\$200	
Clause 36 (1) (b)	\$150	
Clause 37	\$150	\$750
Clause 38	\$200	
Clause 39	\$200	
Clause 40	\$200	
Clause 41 (1)	\$200	
Clause 41 (2)	\$150	
Clause 42	\$150	
Clause 44 (1)	\$300	
Clause 45 (1)	\$200	
Clause 46	\$100	\$750
Clause 49	\$300	
Clause 50	\$300	
Clause 51 (1)	\$150	
Clause 51 (2) (a)	\$300	
Clause 51 (2) (b)	\$100	



## Passenger Transport Regulation 2007

## Schedule 3 Penalty notice offences

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Clause 52 (1)	\$100	
Clause 53 (2)	\$200	
Clause 54	\$100	
Clause 55	\$300	
Clause 56 (1)	\$200	
Clause 57	\$150	
Clause 58	\$200	
Clause 60 (1)	\$100	
Clause 61 (1)	\$200	
Clause 62	\$100	
Clause 63	\$200	
Clause 64	\$200	
Clause 65	\$300	
Clause 66 (1)	\$200	
Clause 68 (2)	\$100	
Clause 73	\$100	
Clause 74 (1)	\$100	
Clause 75	\$100	
Clause 76	\$100	
Clause 77 (1)	\$100	
Clause 78 (1)	\$200	
Clause 79	\$200	
Clause 80	\$200	
Clause 81	\$200	
Clause 82	\$300	
Clause 83 (2)	\$200	

## Passenger Transport Regulation 2007

## Penalty notice offences

Schedule 3

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Clause 84 (1)	\$200	
Clause 84 (4)	\$200	
Clause 85 (1)	\$150	
Clause 86	\$250	
Clause 87 (1)	\$200	
Clause 88 (1)	\$200	
Clause 89 (1)	\$300	
Clause 90 (2)	\$200	
Clause 91 (4)	\$1,000	
Clause 92	\$100	
Clause 93	\$100	
Clause 94	\$100	
Clause 95	\$100	
Clause 96	\$200	
Clause 97	\$100	
Clause 100 (2)	\$100	
Clause 105	\$200	
Clause 108	\$400	
Clause 109	\$200	
Clause 110	\$300	
Clause 111	\$300	
Clause 112	\$300	
Clause 113	\$300	
Clause 114	\$300	
Clause 115	\$300	
Clause 116	\$300	

## Passenger Transport Regulation 2007

## Schedule 3 Penalty notice offences

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Clause 117	\$200	
Clause 118	\$150	
Clause 120	\$200	
Clause 121 (6) (b)	\$150	
Clause 121 (7)	\$150	
Clause 121 (8)	\$200	
Clause 121 (9)	\$300	
Clause 122 (1)	\$150	
Clause 123	\$150	
Clause 124 (2)	\$200	
Clause 124 (3)	\$100	
Clause 125	\$150	
Clause 126	\$150	
Clause 127	\$200	
Clause 128	\$200	
Clause 129	\$150	
Clause 130	\$150	
Clause 131 (1)	\$200	
Clause 132	\$150	
Clause 133 (1)	\$400	
Clause 134	\$75	
Clause 135 (a)	\$150	
Clause 135 (b)	\$150	
Clause 135 (c)	\$150	
Clause 136	\$75	
Clause 137	\$150	\$1,000

## Passenger Transport Regulation 2007

## Penalty notice offences

Schedule 3

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Clause 138 (1)	\$150	
Clause 139	\$150	
Clause 140	\$150	
Clause 141	\$200	
Clause 142 (2)	\$150	
Clause 143 (1)		\$5,000
Clause 144		\$750
Clause 145 (2)		\$750
Clause 146 (1)	\$150	
Clause 147	\$200	
Clause 148	\$150	
Clause 149 (2)	\$150	
Clause 150	\$150	
Clause 151	\$200	
Clause 152	\$150	
Clause 153	\$150	
Clause 154	\$150	
Clause 155 (1)	\$150	
Clause 157 (2)	\$150	
Clause 158	\$150	
Clause 159	\$150	
Clause 160	\$150	
Clause 161	\$150	
Clause 162 (1)	\$500	
Clause 163 (1)	\$300	
Clause 163 (2)	\$300	

## Passenger Transport Regulation 2007

## Schedule 3 Penalty notice offences

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Clause 182	\$500	
Clause 187 (4)	\$500	
Clause 188 (1)	\$150	
Clause 189	\$750	
Clause 190 (1)	\$150	
Clause 192	\$150	
Clause 193	\$150	
Clause 194	\$100	
Clause 195 (1)		\$1,000
Clause 196 (1)		\$5,000
Clause 197		\$750
Clause 198		\$750
Clause 199	\$200	
Clause 203	\$300	
Clause 204	\$150	
Clause 205	\$300	
Clause 206	\$150	
Clause 207	\$150	
Clause 208	\$150	
Clause 209	\$300	
Clause 210	\$150	
Clause 211	\$200	
Clause 214	\$100	
Clause 215	\$200	
Clause 216	\$200	
Clause 232	\$300	

Passenger Transport Regulation 2007

Penalty notice offences

Schedule 3

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Penalty</b>	<b>Penalty (Sydney Airport precinct)</b>
Clause 233	\$150	\$5,000
Clause 235 (1)	\$75	
Schedule 1, clause 2	\$500	
Schedule 1, clause 3	\$200	
Schedule 1, clause 4	\$200	

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New South Wales

# Petroleum (Onshore) Regulation 2007

under the

Petroleum (Onshore) Act 1991

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Petroleum (Onshore) Act 1991*.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

## Explanatory note

The object of this Regulation is to remake the provisions of the *Petroleum (Onshore) Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation deals with the following matters:

- (a) plans and work programs for petroleum titles (Part 2),
- (b) reports to be furnished with respect to petroleum exploration operations (Part 3),
- (c) compensation to persons affected by petroleum exploration operations (Part 4),
- (d) the appointment of agents (Part 5),
- (e) the fees payable under the *Petroleum (Onshore) Act 1991* (Part 6),
- (f) rates of royalty payable on petroleum, including for the purposes of Division 3 of Part 14 of the *Mining Act 1992* for petroleum recovered under a mining lease for coal (Part 7),
- (g) other matters of a minor, consequential or ancillary nature (Parts 1 and 8).

This Regulation adopts as a code of practice the *Schedule of Onshore Petroleum Exploration and Production Safety Requirements*, first published by the Department of Mineral Resources in 1992.

This Regulation is made under the *Petroleum (Onshore) Act 1991*, including section 138 (the general regulation-making power) and sections 12, 13, 14, 23, 45D, 69G, 85, 93, 95, 96, 101, 108, 110, 118, 119, 120, 128, 131, 134, 137A and 138B.

## Petroleum (Onshore) Regulation 2007

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## Petroleum (Onshore) Regulation 2007

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Clause 1	Petroleum (Onshore) Regulation 2007
Part 1	Preliminary

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## Petroleum (Onshore) Regulation 2007

under the

Petroleum (Onshore) Act 1991

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Petroleum (Onshore) Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Petroleum (Onshore) Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions and notes

(1) In this Regulation:

**commercial production** of petroleum means the use by, or supply to, any person (including the holder of a petroleum title or mining lease) of any petroleum extracted from an area of land to which a petroleum title or mining lease relates for any purpose (other than for well assessment, flaring or equipment testing that does not result in the generation of energy or supply of petroleum for commercial purposes).

**Note.** The term **petroleum title** is defined in section 3 (1) of the Act to mean an exploration licence, assessment lease, production lease or special prospecting authority in force under the Act.

**fixed agenda** means a fixed agenda referred to in clause 5 (3) or 6 (1) or (2).

**mining lease** has the same meaning as it has in the *Mining Act 1992*.

**the Act** means the *Petroleum (Onshore) Act 1991*.

**work program** means a work program referred to in section 14 of the Act.

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

Petroleum (Onshore) Regulation 2007

Clause 4

Petroleum titles

Part 2

## Part 2 Petroleum titles

### 4 Drawing of plans: section 13

- (1) A map or plan accompanying an application for a petroleum exploration licence must be drawn on or overlay the Department of Mineral Resources New South Wales Block Identification Map Series 1 (1:1 500 000) showing blocks.
- (2) A map or plan accompanying an application for any other petroleum title, or otherwise prepared for the purposes of the Act, must be drawn on or overlay:
  - (a) the Identification Map referred to in subclause (1) if the area to which the proposed title relates is larger than one block, or
  - (b) the Department of Mineral Resources New South Wales Block Identification Map Series 3 (1:100 000) showing units, or
  - (c) a standard topographical map or maps at a scale of 1:100 000, 1:50 000 or 1:25 000 or at such larger scale as the Minister may determine for that application, showing the co-ordinates (by reference to Map Grid of Australia co-ordinates) of all points where there is a change in direction of the boundaries of the land concerned.
- (3) In this clause, *Map Grid of Australia* means a rectangular co-ordinate system using a Transverse Mercator projection with zones 6 degrees wide and based on the Geocentric Datum of Australia (within the meaning of the *Surveying Act 2002*).

### 5 Work programs: section 14

- (1) The work program supporting an application for an exploration licence or assessment lease may be prepared in either of two formats.
- (2) Under one format, it may consist of a fixed agenda describing in detail the nature and extent of operations to be carried on under the licence or lease during the whole of its term.
- (3) Under the other format (the *two-part format*), it may be divided into two parts, namely:
  - (a) a fixed agenda describing in detail the nature and extent of operations to be carried on during an initial period (at least the first two years) of the term of the licence or lease, and
  - (b) a summary of intended operations during the remainder of the term.

Clause 6            Petroleum (Onshore) Regulation 2007

Part 2             Petroleum titles

---

- (4) If prepared in the two-part format, it is a condition of the petroleum title, if granted, that the holder of the title will provide progressive agendas in accordance with clause 6.
- (5) The work program for a special prospecting authority is to be a fixed agenda describing in detail the nature and extent of operations to be carried on under the authority during the whole of its term.

#### **6 Progressive agendas**

- (1) If the work program supporting the application for a petroleum title was prepared using the two-part format, the holder of the title must, not later than 30 days before the end of the period covered by the fixed agenda supporting the application, lodge another fixed agenda of operations for the next period of two years or for the remainder of the term of the title.
- (2) In the same way, further fixed agendas must be lodged, each not later than 30 days before the end of the period covered by the last agenda, until the entire term of the petroleum title is accounted for.

#### **7 Details to be provided**

A fixed agenda must include details of:

- (a) the objectives of any proposed exploration, and
- (b) the methods of exploration proposed to be employed, and
- (c) the expenditure, estimated on a yearly basis, required by the relevant work program.

#### **8 Commencement of exploration activity**

Not later than 14 days before starting work on any exploration borehole, seismic survey or other exploration within the area of a petroleum title, the holder of the title must advise the Minister of the intention to commence it.

Maximum penalty: 100 penalty units.

#### **9 Work program to be adhered to**

It is a condition of every petroleum title that the holder of the title will carry out the operations, and only the operations, described in the work program, as for the time being in force, in respect of the title.

#### **10 Variation of work program**

- (1) The holder of a petroleum title who wishes to vary the work program in force in respect of the title must lodge a submission with the Minister providing adequate details of the variation proposed to be made and setting out the reasons for making it.

Petroleum (Onshore) Regulation 2007

Clause 11

Petroleum titles

Part 2

- (2) The Minister may approve of the variation if the Minister is satisfied that there is just and sufficient cause for making the variation and if the revised work program meets the Minister's requirements.
- (3) The variation becomes effective when the Minister signifies approval of it by a notice in writing served on the holder of the title.
- (4) The Minister's approval of a variation may also, to any extent the Minister considers necessary or convenient, vary the requirements of this Part in so far as it applies to the holder of the title concerned.

#### **11 Applications for low-impact prospecting titles: section 45D**

- (1) A low-impact prospecting title is not to be granted during the period of 4 months following service of notice of the application for the title on the representative bodies referred to in section 45D (1) (c) of the Act.
- (2) This clause extends to applications made, but not granted, before the commencement of this clause.

#### **12 Records of titles: section 95**

For the purposes of section 95 (2) of the Act, the record required to be kept:

- (a) must be kept in written form or by means of computer equipment, and
- (b) must contain the following particulars:
  - (i) the type of petroleum title and the identifying number or code allocated to it,
  - (ii) the date on which the petroleum title was first granted,
  - (iii) the name and address of each person who is a holder of the petroleum title,
  - (iv) a description of the land over which the petroleum title is in force,
  - (v) the period for which the petroleum title is to have effect,
  - (vi) the current status of the petroleum title (that is, "current", "expired" or "cancelled"),
  - (vii) any interest registered under section 97 of the Act in relation to the petroleum title.

#### **13 Prescribed particulars for transfers of titles: section 96**

For the purposes of section 96 (2) (c) of the Act, the following particulars are prescribed:

Clause 13      Petroleum (Onshore) Regulation 2007

Part 2          Petroleum titles

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- (a) the name of the proposed transferee,
- (b) a description of the financial resources available to the proposed transferee,
- (c) details of any person providing technical advice to the proposed transferee,
- (d) a description of the proposed program of work,
- (e) an estimate of the amount of money proposed to be expended on prospecting,
- (f) a calculation of the cost of rehabilitating title areas disturbed by activities carried out or intended to be carried out pursuant to the title (whether carried out by the current holder or contemplated by the proposed transferee).

Petroleum (Onshore) Regulation 2007

Clause 14

Reports

Part 3

---

## Part 3 Reports

### 14 Report on operations in accordance with agenda

- (1) Within 6 months after the completion of:
  - (a) a seismic program, or
  - (b) the drilling of an exploration borehole, or
  - (c) any activity described in the conditions of the title as a significant component of a work program,the holder of a petroleum title must forward to the Director-General, in the format specified in the conditions of the title, a report on operations carried out in the activity concerned, together with all raw and processed data and the main conclusions drawn from it.
- (2) After the end of the period covered by a fixed agenda, the holder of the title must forward to the Director-General:
  - (a) within 30 days, a summary of operations carried out during the period covered by the agenda, and
  - (b) within 6 months, a full report on operations carried out during that period.

Maximum penalty: 100 penalty units.

### 15 Geological plans and records: section 131

- (1) The holder of a petroleum title must, in accordance with directions issued from time to time by the Director-General, keep geological plans and records relating to work carried out in connection with the title.
- (2) For the purposes of section 131 (1) of the Act, the prescribed form is any form that shows a summary of the operations conducted during the period to which the record relates, together with details of expenditure in respect of each such operation.
- (3) The requirements of this clause are in addition to the other requirements of this Part.
- (4) The holder of a petroleum title who does not keep geological plans and records as required by this clause, or who does not furnish to the Minister any record required to be furnished under section 131 of the Act within the time allowed under that section, is guilty of an offence.  
Maximum penalty (subclause (4)): 100 penalty units.

### 16 Scale of plans accompanying annual record of operations: section 131

For the purposes of section 131 (1) of the Act, the prescribed scale for any plan accompanying an annual record of operations is any of the following scales, namely, 1:25 000, 1:100 000 or 1:250 000.

Clause 17      Petroleum (Onshore) Regulation 2007

Part 4          Compensation

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## **Part 4    Compensation**

### **17    Time allowed for parties to agree: section 108**

For the purposes of section 108 (2) of the Act, the prescribed time is 30 days after the service by either party on the other of a notice requiring an agreement as to the amount of compensation payable.

### **18    Manner of assessing and determining compensation: section 110**

- (1) If compensation is to be assessed by the warden, 7 days' notice must be given to all persons appearing to the warden to be interested in the assessment.
- (2) Proceedings may be conducted for the purposes of the assessment in the warden's court or on the land concerned.

### **19    Manner of payment**

- (1) The warden may order that compensation be paid into court in one amount or in instalments.
- (2) The order is to fix the time within which any such payment is required to be made.



Petroleum (Onshore) Regulation 2007

Clause 20

Agents

Part 5

---

## Part 5 Agents

### 20 Agents: section 134

- (1) The following persons may appoint one or more agents for the purposes of the Act and this Regulation:
  - (a) the holder of a petroleum title,
  - (b) an applicant for a petroleum title,
  - (c) any person who owns or occupies land over which a petroleum title is in force or to which an application for a petroleum title relates.
- (2) The Director-General may refuse to deal with a person who claims to be acting as an agent unless notice of the person's appointment as an agent, and of the agent's powers and functions in relation to the Act and this Regulation, have been served on the Director-General.
- (3) The appointment of a person as an agent for the service of documents on the principal does not render invalid the service of any document otherwise than on the agent.

Clause 21      Petroleum (Onshore) Regulation 2007

Part 6          Fees

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## **Part 6    Fees**

### **21    Fees**

- (1) The fees prescribed in Schedule 1 are payable in connection with the matters indicated in that Schedule.
- (2) Copies of or extracts from any record may be obtained from the Department on payment of such charge as the Director-General may determine.

### **22    Remission or waiver**

The Minister may remit or waive payment of the whole or part of any fee payable under this Regulation in relation to a particular person or class of persons, but only if the Minister is satisfied that there is sufficient cause to do so.

Petroleum (Onshore) Regulation 2007

Clause 23

Royalty

Part 7

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## Part 7 Royalty

### 23 Rate of royalty: section 85

- (1) For the purposes of section 85 (2) of the Act, the prescribed annual rate of royalty is as follows:
  - (a) for the first 5 years from the first commercial production date—nil,
  - (b) for the 6th, 7th, 8th and 9th years from the first commercial production date—6%, 7%, 8% and 9%, respectively, of the value at the well-head of the petroleum,
  - (c) for the 10th and subsequent years from the first commercial production date—10% of the value at the well-head of the petroleum.
- (2) For the purposes of this clause:
  - (a) the *first commercial production date* is the date on which commercial production of petroleum first began on the land to which the petroleum title relates, and
  - (b) a period of time referred to in subclause (1) is to be calculated inclusive of the first commercial production date, and
  - (c) the prescribed annual rate of royalty is to be determined only by reference to the first commercial production date and not by reference to the date or dates on which commercial production of petroleum began in relation to each well on the land to which the petroleum title relates.

### 24 Rate of royalty: Mining Act 1992 section 286

- (1) For the purposes of Division 3 of Part 14 of the *Mining Act 1992*, the prescribed rate of royalty for petroleum recovered under a mining lease for coal is as follows:
  - (a) for the first 5 years from the first commercial production date—nil,
  - (b) for the 6th, 7th, 8th and 9th years from the first commercial production date—6%, 7%, 8% and 9%, respectively, of the value at the well-head of the petroleum,
  - (c) for the 10th and subsequent years from the first commercial production date—10% of the value at the well-head of the petroleum.

Clause 24      Petroleum (Onshore) Regulation 2007

Part 7          Royalty

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- (2) For the purposes of this clause:
- (a) the ***first commercial production date*** is the date on which commercial production first began on the land to which the holding relates, and
  - (b) a period of time referred to in subclause (1) is to be calculated inclusive of the first commercial production date, and
  - (c) the prescribed rate of royalty is to be determined only by reference to the first commercial production date and not by reference to the date or dates on which commercial production began in relation to each well on the land to which the holding relates, and
  - (d) if at any time there has been no commercial production of petroleum on the land to which the holding relates for a period of 5 years or more, any commercial production of petroleum that occurred on that land prior to that period is to be ignored in determining the first commercial production date in relation to the land.
- (3) In this clause:
- holding*** means all land within the colliery holding registered under section 163 of the *Mining Act 1992* that includes the land within the mining lease from which the petroleum is extracted.

Petroleum (Onshore) Regulation 2007

Clause 25

Miscellaneous

Part 8

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## Part 8 Miscellaneous

### 25 Notification of commencement of commercial production

It is a condition of every assessment lease or production lease in force under the Act that:

- (a) the holder of the lease must notify the Director-General in writing of the date on which commercial production first commences on the land to which the lease relates, and
- (b) the notification must be given within the period of 7 days after that date.

### 26 Non-compliance notices

- (1) If the Director-General is of the opinion that the holder of a petroleum title has contravened a provision of this Regulation in relation to the title, the Director-General may serve a notice (a ***non-compliance notice***) requiring the holder of the title to comply with the provision within the time limited by the notice.
- (2) It is a condition of every petroleum title that the holder of the title must comply with the terms of any non-compliance notice.
- (3) The provisions of this clause are in addition to any provision of this Regulation imposing a penalty for its contravention, and do not affect the liability of any person to pay any such penalty.

### 27 Safety practices

- (1) Subject to section 128 of the Act, all exploration or other activity carried out under the authority of a petroleum title is to be carried out in conformity with the *Schedule of Onshore Petroleum Exploration and Production Safety Requirements* published by the Department of Mineral Resources in August 1992 (***the Schedule***), as amended from time to time.
- (2) It is a condition of every petroleum title that the holder of the title will comply with the requirements of subclause (1).
- (3) A copy of the Schedule, together with any amendments made to it from time to time, is to be made available at the main office of the Department of Primary Industries in Maitland, and at such other offices as the Director-General may appoint, for inspection by any person without fee.
- (4) Copies of or extracts from the Schedule and any such amendments may be made or taken by any person on payment of the fee fixed by the Director-General.

Clause 28      Petroleum (Onshore) Regulation 2007

Part 8          Miscellaneous

---

**28 Certificates of authority: section 101**

- (1) The certificate must be signed by the Director-General (or by the Director-General's delegate, if issued under delegation) and must include the following particulars:
  - (a) a statement to the effect that it is issued under the *Petroleum (Onshore) Act 1991*,
  - (b) the name of the person to whom it is issued,
  - (c) the nature of the powers it confers.
- (2) For the purpose of authorising a person to exercise a power conferred by Part 9 of the Act, the Director-General may issue the person with a certificate of authority.
- (3) Such a certificate is the form of evidence required for the purposes of section 101 (1) (b) of the Act.

**29 Penalty notices for contravention of petroleum title: section 137A**

For the purposes of section 137A (2) of the Act, the prescribed penalty for an offence under section 136A of the Act that consists of a contravention of or failure to comply with a condition of a petroleum title described in Column 1 of Schedule 2 is the penalty specified in Column 2 of that Schedule opposite the description of the condition.

**30 References to officers in petroleum titles: section 138B**

Pursuant to section 138B of the Act, a reference in any petroleum title to any of the following officers is, for the purpose of the performance of a function involving rehabilitation or environmental requirements, taken to be a reference to the Minister:

District Inspector,  
Inspector of Petroleum.

**31 Savings and transitional provisions**

- (1) Subject to subclause (2), any act, matter or thing that, immediately before the repeal of the *Petroleum (Onshore) Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.
- (2) For the purposes of calculating royalties that are payable on or after the commencement of this Regulation, the provisions of clauses 23 (2) and 24 (2) extend to commercial production that was first begun on land before the commencement of this Regulation.

Petroleum (Onshore) Regulation 2007

Fees

Schedule 1

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## Schedule 1 Fees

(Clause 21)

<b>Matter</b>	<b>Fee</b>
On application for a petroleum title (section 12)	\$1,000
On application for a renewal of a petroleum title (section 19)	\$1,000
On application for the appointment of an arbitrator under section 69G	\$180
On grant of a petroleum exploration licence (section 93):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
On renewal of a petroleum exploration licence (section 93):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
On grant of a petroleum assessment lease (section 93):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
On renewal of a petroleum assessment lease (section 93):	
(a) for a term of less than 3 years	\$10,000
(b) for a term of not less than 3 years	\$15,000
On grant of a petroleum production lease (section 93):	
(a) if associated with methane drainage in or over a colliery	\$5,000
(b) in any other case	\$40,000
On renewal of a petroleum production lease (section 93):	
(a) if associated with methane drainage in or over a colliery	\$5,000
(b) in any other case	\$40,000
On grant of a special prospecting authority (section 93)	\$1,000
On application for approval of a transfer of a title, for each title	\$1,000
On registration of a transfer	\$180

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## Petroleum (Onshore) Regulation 2007

## Schedule 1 Fees

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<b>Matter</b>	<b>Fee</b>
On lodgment of a caveat	\$250
Registration of any instrument under section 97	\$250
On application by a person for the grant of an easement or right of way under section 105	\$1,000
On application by a person for the grant of a right of way under section 106	\$1,000
Release of information in accordance with a request under section 118	120% of the cost to the Department of making available the information to which the request relates
Inspection of cores, cuttings or samples in accordance with a request under section 119	120% of the cost to the Department of making available the cores, cuttings or samples to which the request relates
Release of information in accordance with a request under section 120	120% of the cost to the Department of making available the information to which the request relates
On application by a person on whom the rights of the registered holder of a title have devolved by operation of law to have the person's name recorded as the registered holder of the title, for each title	\$250
For noting a change of name of the registered holder of a title, for each title	\$250

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Petroleum (Onshore) Regulation 2007

Penalty notice offences

Schedule 2

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## Schedule 2 Penalty notice offences

(Clause 29)

<b>Column 1</b>	<b>Column 2</b>
<b>Nature of condition</b>	<b>Penalty for contravention or failure to comply</b>
Any condition identified in the title as a condition related to environmental management	\$2,500
Any other condition of a title	\$1,250



New South Wales

# Ports and Maritime Administration Regulation 2007

under the

Ports and Maritime Administration Act 1995

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Ports and Maritime Administration Act 1995*.

JOSEPH TRIPODI, M.P.,  
Minister for Ports and Waterways

## Explanatory note

The object of this Regulation is to remake without substantial changes the *Ports Corporatisation and Waterways Management Regulation 2002* and the *Ports Corporatisation (Staff Director Elections) Regulation 2002* which are repealed on 1 September 2007 by the *Subordinate Legislation Act 1989*.

The Regulation deals with the following matters:

- (a) matters relating to port charges under Part 5 of the *Ports and Maritime Administration Act 1995*,
- (b) prescribing the boundaries of specified ports,
- (c) the manner in which the staff director of a Port Corporation is to be elected,
- (d) prescribing certain legislation to be included in the definition of *marine legislation* in section 3 (1) of that Act.

This Regulation is made under the *Ports and Maritime Administration Act 1995*, including sections 3 (1), 18, 76 and 110 (the general regulation-making power).

Part 4 of this Regulation comprises or relates to matters of a machinery nature.

## Ports and Maritime Administration Regulation 2007

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Part 1	Preliminary

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## Ports and Maritime Administration Regulation 2007

under the

Ports and Maritime Administration Act 1995

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Ports and Maritime Administration Regulation 2007*.

#### 2 Commencement

(1) This Regulation commences on 1 September 2007, except as provided by subclause (2).

(2) Clauses 30 (2) and 36 (4) commence on the later of:

(a) the day on which Schedule 15 to the *Parliamentary Electorates and Elections Amendment Act 2006* commences, or

(b) 1 September 2007,

and are repealed on the day following the day on which those subclauses commence.

**Note.** This Regulation replaces the *Ports Corporatisation and Waterways Management Regulation 2002* and the *Ports Corporatisation (Staff Director Elections) Regulation 2002* which are repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definition

In this Regulation:

*the Act* means the *Ports and Maritime Administration Act 1995*.

#### 4 Notes

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

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## Part 2 Port charges

### Division 1 Preliminary

#### 5 Definitions

(1) In this Part:

*charge* means a charge under Part 5 of the Act.

*container* means an article of transport equipment (other than a vessel) that:

- (a) is of a permanent character and accordingly is strong enough to be suitable for repeated use, and
- (b) is specially designed or adapted to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading.

*officer of a relevant port authority* means:

- (a) if the relevant port authority is the Minister—a delegate of the Minister, or an officer of such a delegate, appointed by the Minister or the delegate (as the case requires) as an officer for the purposes of this Part, or
- (b) if the relevant port authority is a Port Corporation—an officer of the Port Corporation appointed by the Port Corporation as an officer for the purposes of this Part.

*owner* has the same meaning as in section 48 of the Act.

*voyage number*, in relation to a vessel, means the number allocated to the vessel in respect of a particular sailing.

*working day*, in relation to a port, means that part of the day (not being a Saturday, Sunday or public holiday) during which work is normally carried on in the port.

(2) Other words and expressions in this Part have the same meanings as they have in Part 5 of the Act.

#### 6 Exemption from navigation service charges for certain vessels

(1) A vessel that:

- (a) leaves the port of Sydney Harbour and, without leaving the territorial sea of Australia or entering another port, enters the port of Botany Bay, or
- (b) leaves the port of Botany Bay and, without leaving the territorial sea of Australia or entering another port, enters the port of Sydney Harbour,

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is exempt from Division 2 (Navigation service charges) of Part 5 (Port charges) of the Act in respect of the second port entered.

(2) In this clause:

*territorial sea of Australia* means the territorial sea of Australia within the limits referred to in section 4 (1) of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth.

## **Division 2        General principles for calculation of charges**

### **7    Rates per tonne**

If the amount of any charge is to be calculated at a rate per tonne, that calculation may, at the discretion of the relevant port authority, be made on the basis that 1 tonne is equivalent to:

- (a) a mass of 1,000 kilograms, or
- (b) a volume of 1 cubic metre or 1 kilolitre.

### **8    Goods in bulk**

If, in the terms by which any charge is fixed, reference is made to goods of any specified description being in bulk, the reference is to be construed (unless provision is made to the contrary) as a reference to goods of that description that have been loaded on to or discharged from a vessel at a designated port by means of a pipeline, conveyor, mechanical shovel or bucket.

### **9    Rounding off**

For the purpose of calculating a charge that is to be determined by reference to stated units of measurement (whether of weight or volume) of any goods, the measurement of those goods is the lowest whole number of those units that the actual weight or volume of those goods does not exceed.

### **10   Gross tonnage**

- (1) For the purposes of calculating any charge, the gross tonnage of a vessel is the gross tonnage of the vessel as stated on the International Tonnage Certificate (1969) for the vessel issued in accordance with the *International Convention on Tonnage Measurement of Ships 1969*.

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- (2) If no such certificate has been issued in respect of the vessel, the gross tonnage of the vessel is to be calculated by the relevant port authority in accordance with the formula set out in the document known as MSC Circular 653 (entitled *MSC/Circ. 653*) issued by the International Maritime Organization.

**Note.** Copies of MSC Circular 653 are available from the Australian Maritime Safety Authority.

### Division 3      **Furnishing of particulars**

#### **11    Navigation service charge—particulars to be furnished**

The owner of a vessel in respect of which a navigation service charge is payable must, at such time as the relevant port authority requires, furnish the relevant port authority with the following particulars:

- (a) the owner's name and address,
- (b) the name, identifying particulars and relevant voyage number of the vessel,
- (c) the gross tonnage of the vessel,
- (d) the port in respect of which the navigation service charge is payable,
- (e) the date on which, the time at which, and the purpose for which, the vessel entered the port,
- (f) such other information with respect to payment of the navigation service charge as the relevant port authority reasonably requests.

Maximum penalty: 20 penalty units.

#### **12    Pilotage charge—particulars to be furnished**

The owner of a vessel in respect of which a pilotage charge is payable must, at such time as the relevant port authority requires, furnish the relevant port authority with the following particulars:

- (a) the owner's name and address,
- (b) the name, identifying particulars and relevant voyage number of the vessel,
- (c) the gross tonnage of the vessel,
- (d) the pilotage port in respect of which the pilotage charge is payable,
- (e) the time, date and nature of the pilotage of the vessel in respect of which the pilotage charge is payable,



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- (f) such other information with respect to payment of the pilotage charge as the relevant port authority reasonably requests.

Maximum penalty: 20 penalty units.

**13 Port cargo access charge—particulars to be furnished**

A person liable to pay a port cargo access charge must, at such time as the relevant port authority requires, furnish to the relevant port authority the following particulars:

- (a) the name and address of the person making the payment,
- (b) the name of the vessel from or on to which the cargo has been or is to be discharged or loaded, and the site at which the discharge or loading took place or is to take place,
- (c) a description of the cargo,
- (d) the nature and number of the packages, cases or other receptacles in which the cargo is enclosed (whether or not those receptacles are carried in a container), and the identifying marks and numbers of those receptacles as shown on each bill of lading in respect of the cargo,
- (e) if the cargo is carried in a container, the identifying marks and number on the container,
- (f) the mass and volume (expressed in cubic metres or in kilolitres) of the cargo,
- (g) the number of each bill of lading that is to be or has been issued in respect of the cargo,
- (h) such other information with respect to payment of the port cargo access charge as the relevant port authority reasonably requests.

Maximum penalty: 20 penalty units.

**14 Site occupation charges—particulars to be furnished**

- (1) The occupier of the site in respect of which a site occupation charge is payable must, at such time as the relevant port authority requires, furnish to the relevant port authority the following particulars:
- (a) the type of site sought,
  - (b) the name of the vessel,
  - (c) the name and address of the owner of the vessel,
  - (d) the date and time the site will be required,
  - (e) the general nature of any cargo to be transferred,
  - (f) the expected duration for which the site will be required,

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- (g) the intended daily hours of work.  
Maximum penalty: 20 penalty units.
- (2) The occupier of the site in respect of which a site occupation charge is payable must, within 24 hours of vacating the site, furnish to the relevant port authority details of the times when the occupation of the site commenced and finished.  
Maximum penalty: 20 penalty units.
- (3) The site occupation charge is to be calculated by reference to the amount of time for which the site was occupied.
- (4) For the purposes of subclause (2):
- (a) occupation of a site commences at the time when:
    - (i) the first cargo arrives at the site for loading onto the vessel, or
    - (ii) the vessel arrives at the site, whichever first occurs, and
  - (b) occupation of a site finishes at the time when:
    - (i) the last cargo discharged by the vessel is removed from the site, or
    - (ii) the vessel leaves the site, whichever last occurs.

**15 Wharfage charge—particulars to be furnished**

- (1) A person liable to pay a wharfage charge must, at such time as the relevant port authority requires, furnish to the relevant port authority the following particulars:
- (a) the name and address of the person making the payment,
  - (b) the name of the vessel from or on to which the cargo has been or is to be discharged or loaded, and the site at which the discharge or loading took place or is to take place,
  - (c) a description of the cargo,
  - (d) the nature and number of the packages, cases or other receptacles in which the cargo is enclosed (whether or not those receptacles are carried in a container), and the identifying marks and numbers of those receptacles as shown on each bill of lading in respect of the cargo,
  - (e) if the cargo is carried in a container, the identifying marks and number on the container,
  - (f) the mass and volume (expressed in cubic metres or in kilolitres) of the cargo,

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(g) the number of each bill of lading that is to be or has been issued in respect of the cargo,

(h) such other information with respect to payment of the wharfage charge as the relevant port authority reasonably requests.

Maximum penalty: 20 penalty units.

(2) An officer of a relevant port authority may require the owner of any goods in respect of which a wharfage charge is payable:

(a) to produce to that officer any document in respect of a matter relevant to the payment of that charge, or

(b) to make those goods available for inspection by the officer.

(3) The owner of any goods who does not comply with any such requirement is guilty of an offence.

Maximum penalty: 20 penalty units.

(4) Subclause (3) does not apply if the documents or goods, at the time their production or availability was required, were not in the owner's possession or under the owner's control.

#### **16 Manifest for goods discharged from vessel**

(1) This clause applies to a vessel only if a wharfage charge or port cargo access charge is payable in respect of the vessel.

(2) If a vessel to which this clause applies is to discharge goods in a designated port, a manifest of all the goods concerned must be given to the relevant port authority within the time specified in subclause (4).

(3) If a manifest is not given as required by subclause (2), the owner of the vessel is guilty of an offence.

Maximum penalty: 20 penalty units.

(4) The manifest must be given:

(a) for the designated ports of Sydney Harbour and Botany Bay—by the end of the third working day after the vessel enters the port, and

(b) for the designated ports of Newcastle, Port Kembla, Yamba and Eden—by the end of the first working day after the vessel leaves the port.

(5) The particulars required to be included in the manifest are as follows:

(a) the name of the vessel, the relevant voyage number and the berth at which the goods are to be, or were, discharged,

(b) the place (or places) at which the goods (or respective goods) were first loaded for carriage by sea to the designated port,

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- (c) the description of the goods, the nature and number of the packages, cases or other receptacles in which they were enclosed (whether or not those receptacles were carried in a container), the identifying marks and numbers of those receptacles as shown on each bill of lading in respect of the goods and the name and address of the consignee of the goods,
  - (d) the number of each bill of lading issued in respect of the goods,
  - (e) the mass and volume (expressed in cubic metres or in kilolitres) of the goods,
  - (f) if the goods were carried in a container, the identifying marks and number of the container,
  - (g) such other information with respect to the goods as the relevant port authority reasonably requests.
- (6) If the vessel is a cargo vessel and no such goods are discharged from the vessel in the designated port, the owner of the vessel must ensure that the relevant port authority is given notice of that fact by the end of the first working day after the vessel leaves the designated port.  
Maximum penalty: 20 penalty units.

**17 Manifest for goods loaded on vessel**

- (1) This clause applies to a vessel only if a wharfage charge or port cargo access charge is payable in respect of the vessel.
- (2) If a vessel to which this clause applies loads goods in a designated port, a manifest of all the goods so loaded must be given to the relevant port authority within the time specified in subclause (4).
- (3) If a manifest is not given as required by subclause (2), the owner of the vessel is guilty of an offence.  
Maximum penalty: 20 penalty units.
- (4) The manifest must be given:
  - (a) for the designated ports of Sydney Harbour and Botany Bay—by the end of the eighth working day after the vessel leaves the port, and
  - (b) for the designated ports of Newcastle, Port Kembla, Yamba and Eden—by the end of the first working day after the vessel leaves the port.
- (5) The particulars required to be included in the manifest are as follows:
  - (a) the name of the vessel, the relevant voyage number and the berth at which the goods were loaded,

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- (b) the destination (or destinations) to which the goods (or respective goods) are ultimately to be carried by sea,
  - (c) the description of the goods, the nature and number of the packages, cases or other receptacles in which they are enclosed (whether or not those receptacles are carried in a container), the identifying marks and numbers of those receptacles as shown on each bill of lading in respect of the goods and the name and address of the consignor of the goods,
  - (d) the number of each bill of lading issued in respect of the goods,
  - (e) the mass and volume (expressed in cubic metres or in kilolitres) of the goods,
  - (f) if the goods are carried in a container, the identifying marks and number of the container,
  - (g) such other information with respect to the goods as the relevant port authority reasonably requests.
- (6) If the vessel is a cargo vessel and no such goods have been loaded in the designated port, the owner of the vessel must ensure that notice is given to the relevant port authority of that fact by the end of the first working day after the vessel leaves the designated port.
- Maximum penalty: 20 penalty units.

**18 Berthing charge—particulars to be furnished**

- (1) The owner of a vessel in respect of which berthing charges are payable must, within 24 hours of those charges first becoming payable due to the berthing of the vessel at a wharf, dolphin or buoy, furnish to the relevant port authority in triplicate the following particulars:
- (a) the owner's name and address,
  - (b) the name of the vessel,
  - (c) the wharf, dolphin or buoy at which the charges first became payable,
  - (d) the gross tonnage of the vessel,
  - (e) in the case of a fishing vessel, the length of the vessel,
  - (f) in the case of a ferry, the number of passengers the vessel is authorised by law to carry or, if that ferry is a vehicular ferry, a statement of that fact,
  - (g) the time and date of the berthing of the vessel at the wharf, dolphin or buoy.
- Maximum penalty: 10 penalty units.

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- (2) The owner of such a vessel must, within 24 hours after berthing charges have ceased to be payable in respect of that vessel, inform the relevant port authority in writing of that fact.  
Maximum penalty: 10 penalty units.

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Part 3          Port boundaries

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## **Part 3    Port boundaries**

### **19    Boundaries of ports**

For the purposes of section 105 of the Act, the boundaries of a port named in Schedule 1 are as described in that Schedule beneath the name of the port concerned.

**Note.** Section 105 of the Act enables the regulations to describe the boundaries of any port or area of water. If the regulations do so, a reference in the marine legislation to that port or area of water is a reference to that port or area of water with boundaries as so described.

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Clause 20

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## Part 4 Staff director elections

### Division 1 Preliminary

#### 20 Definitions

(1) In this Part:

**Chief Executive Officer** means the Chief Executive Officer of a Port Corporation or a person acting in that capacity.

**close of nominations**, in relation to 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**, in relation to an election, means the final time and date fixed by the returning officer for the close of the ballot in the election.

**election** means an election of a person to hold office as a staff director referred to in section 18 of the Act.

**employee** of a Port Corporation has the same meaning as in section 18 (9) of the Act.

**Port Corporation** means Newcastle Port Corporation, Port Kembla Port Corporation or Sydney Ports Corporation.

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

### Division 2 Calling of election

#### 21 Notice of election

(1) As soon as practicable after being notified by the Minister that an election is required to be held, the returning officer:

- (a) must cause a notice of the election to be published in at least one newspaper circulating generally in New South Wales, and
- (b) must notify the Chief Executive Officer in writing that an election is to be held and of the times and dates for the close of nominations and the close of the ballot, as stated in the notice published under paragraph (a).

(2) The notice referred to in subclause (1) (a):

- (a) must state that an election is to be held, and
- (b) must call for the nomination of candidates, and
- (c) must fix the times and dates for the close of nominations and the close of the ballot, and
- (d) must state the places where nominations may be lodged.



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Part 4             Staff director elections

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- (3) The close of nominations is to be not earlier than 21 days, and not later than 28 days, after the date on which the notice is first published.
- (4) The close of the ballot is to be not earlier than 28 days after the close of nominations.

## **22 Extension of time**

- (1) The returning officer may, by a notice in a form similar to, and published in the same manner as, the notice calling for the nomination of candidates, postpone (for a period not exceeding 14 days) the close of nominations or the close of the ballot.
- (2) The power conferred by this clause on the returning officer may be exercised more than once in respect of an election.

## **Division 3 Nominations**

### **23 Nomination of candidates**

- (1) A nomination of a candidate:
  - (a) must be in Form 1, and
  - (b) must contain a statement, signed by the candidate, consenting to the nomination, and
  - (c) must be lodged with the returning officer before the close of nominations.
- (2) A nomination must contain the full name, residential address and signature of each person by whom the nomination is made.
- (3) The returning officer must reject any nomination received by the returning officer after the close of nominations.

### **24 Withdrawal of nomination**

A candidate who has been nominated in an election may, by notice in writing given to the returning officer, withdraw the nomination at any time before the close of nominations.

### **25 Uncontested election**

If, by the close of nominations, 1 person only has been duly nominated as a candidate, that person is elected.

### **26 Contested election**

If, by the close of nominations, 2 or more persons have been duly nominated as candidates, a ballot is to be held.

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### **27 Candidate information sheet**

- (1) A candidate may, at any time before the close of nominations, submit to the returning officer a statutory declaration in Form 2 containing information intended for inclusion in a candidate information sheet.
- (2) If a ballot is to be held, the returning officer is to draw up a candidate information sheet consisting of the information in the statutory declarations submitted by candidates.
- (3) The returning officer may, in drawing up a candidate information sheet, omit 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.

## **Division 4 The ballot**

### **28 Electoral roll**

- (1) As soon as practicable after it becomes apparent that a ballot must be held for an election, the returning officer must notify the Chief Executive Officer:
  - (a) that a ballot is to be held for the election, and
  - (b) that an electoral roll for the election is required.
- (2) The Chief Executive Officer must provide the returning officer with:
  - (a) a roll containing the full names (consecutively numbered and listed in alphabetical order) and residential addresses of all of the employees of the relevant Port Corporation, and
  - (b) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in that roll.
- (3) The electoral roll must be certified by the Chief Executive Officer in accordance with Form 3.
- (4) This clause does not apply to an election to be held as a consequence of an earlier election which has failed if an electoral roll for the earlier election has already been provided to the returning officer.

### **29 Printing of ballot-papers**

- (1) If a ballot is to be held, the returning officer:

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Part 4 Staff director elections

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- (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 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 so that a ballot-paper can be sent to each employee of the relevant Port Corporation, and
  - (c) if a candidate information sheet has been drawn up, must cause sufficient copies of it to be printed so that a copy can be sent to each employee of the relevant Port Corporation.
- (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 the returning officer considers that the names of 2 or more candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
  - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as are required by subclause (3), and
  - (d) such further directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include the following:
- (a) that the voter must record a vote for at least 1 candidate by placing the number "1" in the square opposite the name of the candidate indicating the voter's first preference,
  - (b) that the voter may, but is not required to, vote for additional candidates by placing consecutive numbers (beginning with the number "2") in the squares opposite the names of the additional candidates, indicating the voter's preferences for them.

### **30 Distribution of ballot-papers**

- (1) The returning officer must, as soon as practicable after the printing of the ballot-papers, send to each employee of the relevant Port Corporation:
  - (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

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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, and
  - (c) if applicable, a candidate information sheet.
- (2) Subclause (1) is amended by omitting “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 by inserting instead “or that bears a mark authorised by the Electoral Commissioner”.

### 31 Duplicate ballot-papers

- (1) The returning officer may, at any time before the close of the ballot, 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 spoiled, 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 is to maintain a record of all duplicate ballot-papers issued under this clause.

### 32 Recording of vote

In order to vote at an election, a voter:

- (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.

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## **Division 5 The scrutiny**

### **33 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 each remaining envelope and:
  - (a) must accept the ballot-paper in the envelope, if satisfied that a person of that name is an employee of the relevant Port Corporation, 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.

### **34 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.

### **35 Scrutineers**

- (1) Each candidate is entitled to appoint a scrutineer to represent the candidate at all stages of the scrutiny.
- (2) A candidate who appoints a scrutineer must cause written notice of the appointment to be given to the returning officer.

### **36 Scrutiny of votes**

- (1) The scrutiny of votes 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,

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- (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 election.
- (2) At the scrutiny of votes, a ballot-paper must be rejected as informal:
- (a) if it is neither initialled by the returning officer (or a person authorised by the returning officer) nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, or
  - (b) if it has on it any mark or writing which the returning officer considers could enable any person to identify the voter who completed it, or
  - (c) if it has not been completed in accordance with the directions shown on it.
- (3) However, a ballot-paper is not to be rejected as informal:
- (a) merely because of any mark or writing on it which is not authorised or required by this Part (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, or
  - (b) if the voter has recorded a vote by placing in a 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, or
  - (c) merely because the voter has recorded a vote by placing a cross or a tick in a square and not placing any mark or writing in any other square, but the ballot-paper is to be treated as if the cross or tick were the number "1".
- (4) Subclause (2) (a) is amended by omitting "nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*" and by inserting instead "nor bears a mark authorised by the Electoral Commissioner".

Clause 37          Ports and Maritime Administration Regulation 2007

Part 4             Staff director elections

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**37 Counting the votes**

- (1) The method of counting the votes is to be as set out in Part 2 of the Seventh Schedule to the *Constitution Act 1902*.
- (2) For the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is taken to be a reference to the returning officer under this Part.

**38 Notification of result of election**

As soon as practicable after the votes have been counted, the returning officer:

- (a) must notify the Minister in writing of the name of the candidate elected, and
- (b) must cause notice of the election of the candidate to be published in the Gazette.

**Division 6          Miscellaneous**

**39 Returning officer's decision final**

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

**40 Death of 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 those proceedings must again be taken.

**41 Offences relating to voting**

A person must not:

- (a) vote, or attempt to vote, more than once in an election, or
- (b) vote, or attempt to vote, in an election in which the person is not entitled to vote.

Maximum penalty: 10 penalty units.

Ports and Maritime Administration Regulation 2007

Clause 42

General

Part 5

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## Part 5 General

### 42 Definition of “marine legislation”

The following Acts are prescribed for the purposes of the definition of *marine legislation* in section 3 (1) of the Act:

- (a) *Commercial Vessels Act 1979*,
- (b) *Marine Pilotage Licensing Act 1971*,
- (c) *Maritime Services Act 1935*,
- (d) *Navigation Act 1901*.

### 43 Saving

Any act, matter or thing that, immediately before the repeal of the *Ports Corporatisation and Waterways Management Regulation 2002* or the *Ports Corporatisation (Staff Director Elections) Regulation 2002*, had effect under that Regulation is taken to have effect under this Regulation.



Ports and Maritime Administration Regulation 2007

Schedule 1 Description of port boundaries

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## Schedule 1 Description of port boundaries

(Clause 19)

### 1 Botany Bay

The waters of Botany Bay and of all bays, rivers and their tributaries connected or leading to Botany Bay bounded by mean high water mark and by, as upstream boundaries, the eastern side of the Endeavour Bridge in Cooks River and the eastern side of the Captain Cook Bridge in Georges River together with that part of the South Pacific Ocean below mean high water mark enclosed by the arc of a circle of radius 4 nautical miles having as its centre the navigation light at Henry Head.

### 2 Clarence River (Yamba)

The waters of the main channel of the Clarence River, Iluka Bay and Yamba Channel bounded by mean high water mark and by, as upstream boundaries, the eastern side of Harwood Bridge in the main channel and, in Yamba Channel, a line drawn from the southernmost point of Freeburn Island to the easternmost point of Rabbit Island and from there produced south-westerly to the opposite shore and by, as seaward boundary, a line drawn between the eastern extremity of the northern breakwater at the entrance to the Clarence River and the eastern extremity of the southern breakwater at that entrance.

### 3 Eden

The waters of Twofold Bay bounded by mean high water mark (but excluding all rivers and their tributaries connected or leading to Twofold Bay) and by, as seaward boundary, a line drawn between the southernmost point of Worang Head and the northernmost point of Red Point.

### 4 Newcastle Harbour

The waters of Newcastle Harbour and of all bays, rivers and their tributaries connected or leading to Newcastle Harbour (but excluding Fullerton Cove) bounded by mean high water mark and by, as upstream boundary, the eastern side of the Hexham Bridge together with that part of the South Pacific Ocean below mean high water mark enclosed by the arc of a circle of radius 3 nautical miles having as its centre the navigation light at Nobbys Head.

### 5 Port Kembla

The waters of Port Kembla Inner and Outer Harbours bounded by mean high water mark, together with that part of the South Pacific Ocean below mean high water mark (but excluding Belmore Basin at

Ports and Maritime Administration Regulation 2007

Description of port boundaries

Schedule 1

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Wollongong) bounded by a line running generally north from those harbours to a point (south of Bulli Point) at latitude  $34^{\circ}20'14''S$ , longitude  $150^{\circ}55'32''E$ ; then due east to a point at latitude  $34^{\circ}20'14''S$ , longitude  $151^{\circ}02'26''E$ ; then due south to a point at latitude  $34^{\circ}29'41''S$ , longitude  $151^{\circ}02'26''E$ ; then due west to a point (at Red Point) at latitude  $34^{\circ}29'41''S$  and longitude  $150^{\circ}55'15''E$ ; then generally north to the waters of those harbours.

## **6 Sydney Harbour**

The waters of Sydney Harbour and of all tidal bays, rivers and their tributaries connected or leading to Sydney Harbour bounded by mean high water mark together with that part of the South Pacific Ocean below mean high water mark enclosed by the arc of a circle of radius 4 nautical miles having as its centre the navigation light at Hornby Lighthouse.

Ports and Maritime Administration Regulation 2007

Schedule 2 Forms

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## Schedule 2 Forms

(Clause 20 (2))

### Form 1 Nomination of candidate

(Ports and Maritime Administration Act 1995)

We nominate

*[full name of nominee]*

of

*[postal address of nominee]*

as a candidate for the following election

*[specify the election to which the nomination relates]*

We declare that we are each employees of the relevant Port Corporation.

Name in full	Address	Signature
--------------	---------	-----------

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

### Consent to nomination

I,

*[full name of nominee]*

consent to being a candidate for the election to which this nomination relates.

*[Signature]*

Date:

### Form 2 Candidate information sheet

(Ports and Maritime Administration Act 1995)

I,

*[full name of candidate]*

of

*[address of candidate]*

do solemnly declare that:

My date of birth is:

I hold the following qualifications *[academic/trade/professional]*:

I am a member of the following organisations:

I am employed by:

I hold the following offices (other than employment):

*[See note]*

Ports and Maritime Administration Regulation 2007

Forms

Schedule 2

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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                    ,  
before me:

Justice of the Peace

*[declarant's signature]*

**Note.** A candidate may include further information relating to the candidacy. The information should not exceed 4 lines of typescript.

### **Form 3    Roll of electors**

(Ports and Maritime Administration Act 1995)

I certify that this roll contains the full names *[consecutively numbered and listed in alphabetical order]* and addresses of all of the employees of the relevant Port Corporation.

The first and last entries in the roll are as follows:

First entry No:

Name:

Address:

Last entry No:

Name:

Address:

Dated:

Signed:

Chief Executive Officer

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## Regulations – (continued)

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New South Wales

# Public Lotteries Regulation 2007

under the

Public Lotteries Act 1996

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Lotteries Act 1996*.

GRAHAM WEST, M.P.,  
Minister for Gaming and Racing

### Explanatory note

The object of this Regulation is to remake the *Public Lotteries Regulation 2002*. That Regulation will be repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation:

- (a) provides for a time within which claims for unclaimed public lottery prizes must be made, and
- (b) provides for the disposal of certain unclaimed public lottery prizes and of certain money in prize funds, and
- (c) provides for an entrant in a public lottery to request anonymity, and
- (d) makes provision for responsible practices in the conduct of public lotteries, and
- (e) prescribes certain people as key employees in relation to keno, and
- (f) prescribes the changes of circumstances in relation to licensees for public lotteries that need to be notified to the Minister, and
- (g) prescribes certain contracts as exempt contracts, and
- (h) prescribes the fee for the review of a controlled contract, and
- (i) provides for the saving of certain matters under expired licences, and
- (j) contains other miscellaneous provisions.

This Regulation is made under the *Public Lotteries Act 1996*, including sections 83 (the general regulation-making power) and 83A (Responsible conduct of gambling activities).

## Public Lotteries Regulation 2007

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Public Lotteries Regulation 2007

Clause 1

Preliminary

Part 1

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## Public Lotteries Regulation 2007

under the

Public Lotteries Act 1996

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Public Lotteries Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Public Lotteries Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definition

(1) In this Regulation:

*the Act* means the *Public Lotteries Act 1996*.

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

Clause 4 Public Lotteries Regulation 2007

Part 2 Prizes

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## Part 2 Prizes

### 4 Period in which prizes may be claimed

A claim for an unclaimed prize must be made:

- (a) on or before 1 December 2016, in the case of a prize won in a public lottery conducted on or before 30 November 2010, or
- (b) on or before the sixth anniversary of the date on which the public lottery to which the prize relates was conducted, in the case of a prize won in a public lottery conducted on or after 1 December 2010.

### 5 Unclaimed public lottery prizes

- (1) An unclaimed prize may be disposed of by the licensee who conducted the public lottery in a manner and for a purpose approved by the Minister for the benefit of subscribers to public lotteries conducted by the licensee or, in the case of an unclaimed keno prize, for any other purpose approved of by the Minister.
- (2) If the Minister approves of the disposal by a licensee of an unclaimed prize under subclause (1), the licensee must dispose of the unclaimed prize in the manner and for the purpose approved:
  - (a) within the time, if any, specified in the approval, or
  - (b) if a time is not specified in the approval, within 10 days after the day on which the approval is given, or
  - (c) if the approval was given before the commencement of this subclause, within 10 days after that commencement.

### 6 Disposal of certain money in prize fund if licence not in force

The Minister may, with the approval of the Treasurer, distribute money to which section 27 (10) of the Act refers for the benefit of subscribers to public lotteries generally, by payment to the Consolidated Fund or for such other purposes as the Minister determines.

### 7 Publicity concerning prizewinners

For the purposes of section 38 (2) of the Act, an entrant in a public lottery may request anonymity:

- (a) by having the request for anonymity recorded by the licensee in accordance with the rules of the public lottery, or
- (b) by indicating to the licensee (or an employee of the licensee) when claiming a prize that the person does not want his or her identity published.



Public Lotteries Regulation 2007

Clause 8

Prizes

Part 2

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## 8 Prizes paid by agents

For the purposes of section 39A of the Act, the prescribed amount:

- (a) in relation to a game of keno is \$9,999, and
- (b) in relation to a public lottery (other than a game of keno) is \$1,000.

Clause 9 Public Lotteries Regulation 2007

Part 3 Responsible gambling practices

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### Part 3 Responsible gambling practices

#### 9 Approval of English and other community language player information brochures

- (1) In this clause, *player information* means the following:
  - (a) information concerning the chances of winning a major prize in a public lottery,
  - (b) the G-line (NSW) helpline telephone number operated under contractual arrangements made by the NSW Office of Liquor, Gaming and Racing of the Department of the Arts, Sport and Recreation.
- (2) The Minister may approve one or more pamphlets or brochures containing player information in the English language (a *player information brochure*).
- (3) The Minister may approve one or more pamphlets or brochures containing advice in the Arabic, Chinese, Croatian, Greek, Italian, Korean, Macedonian, Maltese, Serbian, Spanish, Turkish and Vietnamese languages that:
  - (a) indicates the substance of the player information contained in a player information brochure, and
  - (b) advises that the information will be supplied by the licensee or an agent of the licensee in the relevant language on request.
- (4) A pamphlet or brochure approved under subclause (3) may be combined with the player information brochure to which it relates.
- (5) The Minister may approve one or more pamphlets or brochures (a *community language player information brochure*) containing player information in the Arabic, Chinese, Croatian, Greek, Italian, Korean, Macedonian, Maltese, Serbian, Spanish, Turkish and Vietnamese languages.
- (6) The Minister may vary or withdraw any approval given under this clause.

#### 10 Provision of player information brochures

- (1) A licensee must:
  - (a) provide to the agent sufficient copies of the player information brochures approved by the Minister under clause 9 (2) to enable the agent to comply with those requirements, and

Public Lotteries Regulation 2007

Clause 11

Responsible gambling practices

Part 3

- 
- (b) provide further copies of the brochures to an agent of the licensee in accordance with a request by the agent.

Maximum penalty: 50 penalty units.

- (2) An agent of a licensee must ensure that:

- (a) copies of at least one type of player information brochure approved by the Minister under clause 9 (2) are made available at each point of sale (under the control of the agent) for tickets or entries in, or subscriptions to, each public lottery conducted by the licensee, and
- (b) those copies are displayed in such a manner and in such a place that it would be reasonable to expect that a person purchasing a ticket or entry in, or subscribing to, such a lottery at that point of sale would be alerted to their presence.

Maximum penalty: 50 penalty units.

#### **11 Provision of player information brochures in community languages**

- (1) A person may request a licensee or agent of a licensee to supply a community language player information brochure approved under clause 9 (5) in one of the languages specified in that subclause.
- (2) A licensee or agent of a licensee must supply a 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.

#### **12 Gambling information and warnings**

- (1) A licensee must ensure that each printed entry form (however described) and ticket in a public lottery 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.

- (2) Subclause (1) does not apply to instant lottery tickets (commonly known as “scratchies”).
- (3) A licensee must ensure that any written material provided by the licensee to explain to the public how to enter a public lottery contains:
  - (a) an explanation of the chances of winning a major prize in the public lottery or, if there are different prize divisions in the public lottery, an explanation in relation to each of those divisions of the chances of winning a prize in that division, and

Clause 13 Public Lotteries Regulation 2007

Part 3 Responsible gambling practices

(b) the following:

Is gambling a problem for you? CALL G-line (NSW) counselling service 1800 633 635

Maximum penalty: 50 penalty units.

(4) A licensee must include the following information on any website used by the licensee to promote or provide information about a public lottery conducted by the licensee:

(a) the information contained in a player information brochure approved by the Minister under clause 9 (2),

(b) an explanation of the chances of winning a major prize in the public lottery or, if there are different prize divisions in the public lottery, an explanation in relation to each of those divisions of the chances of winning a prize in that division.

Maximum penalty: 50 penalty units.

### 13 Counselling signage—notice to be displayed

(1) A licensee must:

(a) provide to the agent sufficient copies of a notice that complies with this clause to enable the agent to comply with those requirements, and

(b) provide further copies of the notice in accordance with a request by an agent of the licensee.

Maximum penalty: 50 penalty units.

(2) An agent of a licensee must:

(a) display a notice that complies with this clause at each point of sale (under the control of the agent) for tickets or entries in, or subscriptions to, each public lottery conducted by the licensee, or in the vicinity of each such point of sale, and

(b) display each such notice in such a manner that it would be reasonable to expect that a person in the vicinity of the point of sale in relation to which the notice is displayed would be alerted to its contents.

Maximum penalty: 50 penalty units.

(3) The notice must contain the following:

Is gambling a problem for you? CALL G-line (NSW) counselling service 1800 633 635

(4) Subclause (3) does not prevent a notice under this clause containing other information.

Public Lotteries Regulation 2007

Clause 14

Responsible gambling practices

Part 3

- (5) 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.

#### 14 Advertising of public lotteries

- (1) The requirements of subclauses (2) and (3) are prescribed as requirements for the purposes of section 39 (1) (b) of the Act.

**Note.** Section 39 of the Act makes it an offence for a licensee or other person to publish, or cause to be published, any public lottery advertising that is false, misleading or deceptive or is in contravention of a requirement of the regulations. The maximum penalty for the offence is 50 penalty units.

- (2) A licensee or agent of a licensee must not publish, or cause to be published, any public lottery advertising that:

- (a) encourages a breach of the law, or
- (b) depicts children, or
- (c) suggests that winning will be a definite outcome of participating in a public lottery, or
- (d) suggests that entering a public lottery will definitely improve a person's financial prospects, or
- (e) is not conducted in accordance with decency, dignity and good taste and in accordance with the Commercial Television Industry Code of Practice as in force at the time the public lottery advertising is published.

- (3) A licensee or agent of a licensee must ensure that any public lottery advertising in writing published, or caused to be published, by the licensee or agent in a newspaper, magazine, poster or other printed document contains the following:

Is gambling a problem for you? CALL G-line (NSW) counselling service 1800 633 635

- (4) In this clause:

**public lottery advertising** means advertising that is directly related to the conduct of a public lottery.

**publish** includes disseminate in any way, whether by oral, visual, written or other means (for example, dissemination by means of cinema, video, radio or television).

#### 15 Payment of prize money by cheque or electronic funds transfer

- (1) If in a game of keno the prize money payable to a person at the end of a customer session exceeds \$2,000, the licensee or agent of the licensee responsible for paying the prize money:

Clause 16 Public Lotteries Regulation 2007

Part 3 Responsible gambling practices

- (a) if the person so requests, must pay the total prize money by means of:
  - (i) a crossed cheque payable to the person, or
  - (ii) an electronic funds transfer to an account nominated by the person (if those means are available), and
- (b) must pay so much of the total prize money as exceeds \$2,000 by means of:
  - (i) a crossed cheque payable to the person, or
  - (ii) if the person so requests and those means are available, electronic funds transfer to an account nominated by the person.

Maximum penalty: 50 penalty units.

- (2) If in a public lottery (other than a game of keno) the total prize money payable to a person exceeds \$1,000, the licensee responsible for paying the prize money must pay the total prize money by means of:
  - (a) a crossed cheque payable to the person, or
  - (b) if the person so requests, electronic funds transfer to an account nominated by the person.

Maximum penalty: 50 penalty units.

- (3) In this clause:
 

***crossed cheque*** means a cheque crossed as referred to in section 53 of the *Cheques Act 1986* of the Commonwealth.

***customer session*** means the period of time starting when a subscriber:

- (a) makes an entry in a game of keno, or
- (b) checks a receipt ticket in a game of keno, or
- (c) cancels an entry into a game of keno,

and ending when the End Customer terminal key is activated.

***total prize money*** means the total amount of money payable to a person as a result of the person winning money in respect of a single entry in a public lottery (whether or not that entry relates to one, or more than one, game in the public lottery).

## 16 Gambling inducements

- (1) A licensee or agent of a licensee, or an employee of a licensee 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 public lottery conducted by the licensee.  
Maximum penalty: 50 penalty units.
- (2) In subclause (1), ***liquor*** has the same meaning as in the *Liquor Act 1982*.

Public Lotteries Regulation 2007

Clause 17

Miscellaneous

Part 4

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## Part 4 Miscellaneous

### 17 Key employees (keno)

- (1) Any person who is concerned or engaged in any of the following ways in the conduct of games of keno by a keno licensee is a *key employee* for the purposes of paragraph (c) of the definition of *key employee* in section 4 (1) of the Act:
  - (a) involvement, on behalf of the licensee, in the development or operation of any computer systems in relation to those games,
  - (b) involvement, on behalf of the licensee, in the financial or accounting aspects of the conduct of those games.
- (2) Any of the following persons who are concerned or engaged in the conduct of games of keno by a keno licensee are also key employees for the purposes of paragraph (c) of the definition of *key employee* in section 4 (1) of the Act:
  - (a) any person who is employed by or on behalf of Jupiters Gaming (NSW) Pty Ltd in the capacity of, or who performs the duties of, general manager, systems manager, sales and marketing manager, contracts and distribution manager, operations manager or financial controller of that company,
  - (b) any person who is employed by or on behalf of Club Gaming Systems (Holdings) Pty Limited in the capacity of, or who performs the duties of, sales executive or training manager of that company,
  - (c) any person involved, on behalf of Club Gaming Systems (Holdings) Pty Limited, in the development or operation of any computer systems in relation to games of keno conducted by a licensee,
  - (d) any person involved, on behalf of Club Gaming Systems (Holdings) Pty Limited, in the financial or accounting aspects of the conduct of such games.

### 18 Notification of change of circumstances in relation to licensees

- (1) The kinds of changes set out in Schedule 1 are prescribed for the purposes of section 52 of the Act in relation to licensees for public lotteries.
- (2) The particulars to be notified under section 52 of the Act in relation to each kind of change are as set out in Schedule 1 in respect of that kind of change.

Clause 19 Public Lotteries Regulation 2007

Part 4 Miscellaneous

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### 19 Exempt contracts

- (1) The following contracts, or classes of contracts, are prescribed for the purposes of paragraph (b) of the definition of *exempt contract* in section 62 of the Act:
- (a) a contract of employment,
  - (b) a contract relating to the supply or maintenance of gaming, security or surveillance equipment,
  - (c) a contract relating to the supply of gas, water or electricity, or postal or telecommunications services to a licensee or agent,
  - (d) a contract relating to the supply of legal, accounting, financial, corporate or property advisory services to a licensee or agent,
  - (e) a contract relating to the supply of share registry services to a licensee or agent,
  - (f) a contract relating to the supply of airline services to a licensee or agent,
  - (g) a contract of insurance and a contract relating to the supply of insurance to, or the procurement of insurance for, a licensee or agent,
  - (h) a contract relating to the supply of off-site parking for the premises used or to be used by a licensee or agent in connection with the conduct of a public lottery,
  - (i) a contract relating to the supply of ticketing agency services to a licensee or agent,
  - (j) a contract relating to the supply of superannuation services for the benefit of employees of a licensee or agent,
  - (k) a contract relating to the supply of banking or financial services to a licensee or agent,
  - (l) a contract relating to the provision of membership services by an industry representative body to a licensee or agent,
  - (m) a contract relating to the provision of marketing, advertising or promotional goods or services to a licensee or agent.
- (2) Despite subclause (1), the following contracts, or classes of contracts, are not exempt contracts:
- (a) 2 or more contracts for the supply of goods and services by the same supplier during any 12 month period if the aggregate amount payable under the contracts is \$550,000 or more,
  - (b) a contract relating to the supply of gaming equipment if the amount payable under the contract is \$11,000 or more,



Public Lotteries Regulation 2007

Clause 20

Miscellaneous

Part 4

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- (c) a contract relating to the maintenance of gaming equipment if the amount payable under the contract is \$11,000 or more,
  - (d) a contract relating to the supply or maintenance of security or surveillance equipment if the amount payable under the contract is \$110,000 or more.
- (3) In this clause, *gaming equipment* has the same meaning as it has in the *Casino Control Act 1992*.

#### **20 Review of controlled contracts**

For the purposes of section 63 (3) of the Act, \$2,000 is prescribed as the fee for the review of each controlled contract.

#### **21 Saving of certain matters under expired licences**

- (1) This clause applies to and in respect of a licence that expires (*the expired licence*) but is immediately replaced by a new licence that:
- (a) is in substantially the same terms as the expired licence, and
  - (b) is issued to the person who held the expired licence.
- (2) Any approval by the Minister under the conditions of the expired licence and in force immediately before its expiry is taken to be an approval in force under the conditions of the new licence, unless the terms of the new licence otherwise provide.
- (3) The rules relating to the conduct of a public lottery under the expired licence and in force immediately before its expiry are taken to be rules in force for the purposes of the new licence until such time as rules are made and approved under Part 4 of the Act for the purposes of the new licence.
- (4) Any money kept in a prize fund under the Act for the purposes of the expired licence and that is not required for payment of prizes won in a public lottery is taken to be part of the corresponding prize fund kept for the purposes of the new licence.

#### **22 Savings provision**

Any act, matter or thing that had effect under the *Public Lotteries Regulation 2002* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

## Public Lotteries Regulation 2007

## Schedule 1 Change of circumstances to be notified

**Schedule 1 Change of circumstances to be notified**

(Clause 18)

<b>Kind of change</b>	<b>Particulars to be notified</b>
Any change in the name of the licensee, the licensee's principal business address or postal address, e-mail address, website address, telephone number or facsimile number.	Particulars of those matters as changed.
Any change in the membership of the board of directors of the licensee.	Particulars of the name, address and date of birth of any new director.
Any change in the name or address of any member of the board of directors of the licensee.	Particulars of the new name or address of the director.
The licensee commencing to remunerate an employee of the licensee at a remuneration level of \$150,000 per year or more, whether as salary or remuneration package.	Particulars of the name, address and date of birth of the employee.
Any change in the information entered in the register of members of the licensee.	Particulars of the change, including any addition to or deletion from that information.
Any change in the proportion of the paid up capital of the licensee in which a person holds a beneficial interest and any acquisition by a person of a beneficial interest in the paid up capital of the licensee.	Particulars of the name and address of the person and the proportion of the paid up capital in which the person holds a beneficial interest as changed or acquired.
Any change in the nominal or paid up capital of the licensee.	Particulars of the nominal or paid up capital as changed.
Any change in the objectives or main activities of the licensee.	Particulars of those objectives or main activities as changed.
Any change in any direct or indirect financial interests held by the licensee in any business or enterprise, including the acquisition or disposal of such an interest.	Particulars of the interest both before and after the change.
Any other business or enterprise commencing to have the same registered office as the licensee.	Particulars of the name of the other business or enterprise and the activities in which it engages.

## Public Lotteries Regulation 2007

## Change of circumstances to be notified

## Schedule 1

<b>Kind of change</b>	<b>Particulars to be notified</b>
The licensee commencing to carry on any other business or enterprise at any place or the appointment of a person to carry on any other business or enterprise on the licensee's behalf.	Particulars of the address of the place and the business or enterprise carried on there or the name of the person appointed and the business or enterprise to be carried on by the person on the licensee's behalf.
The commencement, settlement, discontinuance or finalisation of civil or criminal proceedings to which the licensee is a party.	Particulars of the nature of the proceedings, the names and addresses of the other parties to civil proceedings, the date of commencement, settlement, discontinuance or finalisation and the terms of settlement (unless terms of settlement are prohibited from being disclosed) or the result of finalisation.
The obtaining of judgment against the licensee, the creation of any charge over any property of the licensee or repossession of any property of the licensee.	Particulars of the terms of the judgment or charge or the reasons for and circumstances of the repossession, and a description of any property affected.
Any amendment under any law of the Commonwealth of an assessment relating to the licensee under taxation legislation of the Commonwealth.	Particulars of the amendment.
Any change in the key employees employed by or on behalf of the licensee.	Particulars of the name and address of a person who becomes or ceases to be a key employee and the date that occurs.
The commencement, settlement, discontinuance or finalisation of civil or criminal proceedings to which a key employee of the licensee is a party and of which the licensee is aware.	Particulars of the nature of the proceedings, the names and addresses of the other parties to the proceedings, the date of commencement, settlement, discontinuance or finalisation and the terms of settlement (unless terms of settlement are prohibited from being disclosed) or the result of finalisation.
Each increase of more than \$500,000 in the debts of the licensee.	Particulars of to whom the debt is owed, the amount of the debt as increased, the amount of the increase and the reason for the increase.
Any failure by the licensee to make due payments under a loan or other financing arrangement.	Particulars of the loan or financing arrangement, the amount due and unpaid and the reason for the failure to pay.
The commencement of the winding up of the licensee or the placement of the licensee under official management.	Particulars of the date on which the winding up or official management commenced.

## Public Lotteries Regulation 2007

Schedule 1 Change of circumstances to be notified

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<b>Kind of change</b>	<b>Particulars to be notified</b>
The licensee entering into a compromise or scheme of arrangement with the licensee's creditors.	Particulars of the date on which the compromise or scheme of arrangement was entered into and the terms of the compromise or scheme.
The appointment of a receiver or manager, whether by the Supreme Court or otherwise, in respect of the property of the licensee.	Particulars of the date and terms of the appointment.

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New South Wales

# Shops and Industries Regulation 2007

under the

Shops and Industries Act 1962

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Shops and Industries Act 1962*.

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

## Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Shops and Industries (Trading) Regulation 2002*. That Regulation will be repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) prescribes the fees to accompany an application by a bank to open on weekends under the *Shops and Industries Act 1962* (*the Act*), and
- (b) prescribes the trades that are, for the purposes of the Act, taken to be those usually carried on in specified classes of shops, and
- (c) classifies all shops (other than scheduled shops under the Act) as *general shops* for the purposes of the definition of that term in section 78 (1) of the Act, and
- (d) prescribes the manner and accompanying fee of an application by a shopkeeper for exemptions from all or any of the opening and closing hour restrictions under the Act, and
- (e) prescribes the manner by which certain goods may be partitioned off in a mixed shop.

This Regulation is made under the *Shops and Industries Act 1962*, including sections 6 (2) (c), 78 (1), 78A (1), 82, 102 and 144 (the general regulation-making power).

Shops and Industries Regulation 2007

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## Shops and Industries Regulation 2007

under the

Shops and Industries Act 1962

### 1 Name of Regulation

This Regulation is the *Shops and Industries Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Shops and Industries (Trading) Regulation 2002* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition and notes

(1) In this Regulation:

*the Act* means the *Shops and Industries Act 1962*.

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

### 4 Applications under Part 2 of the Act—opening of banks on weekends

For the purposes of section 6 (2) (c) of the Act, the prescribed fee to accompany an application by a bank under that section is:

- (a) if the application relates to specified branches of the bank—\$50 for each specified branch up to a maximum fee of \$2,500, or
- (b) if the application relates to all of the branches of the bank from time to time—\$2,500.

### 5 Trades taken to be usually carried on in certain shops

For the purposes of Part 4 of the Act:

- (a) the trade that consists primarily of the hiring out of pre-recorded video cassettes, video tapes and DVDs is taken to be the trade usually carried on in the class of shops known as video shops, and
- (b) in respect of each class of shops specified in Schedule 1, the trade that consists primarily of the sale of goods of a kind specified in that Schedule in respect of that class of shops is taken to be the trade usually carried on in that class of shops, and

Clause 6            Shops and Industries Regulation 2007

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- (c) no trade other than a trade specified in this clause or in Schedule 1 in respect of a particular class of shops is to be taken to be a trade usually carried on in the class of shops concerned.

#### **6 General shops**

For the purposes of the definition of *general shop* in section 78 (1) of the Act, all shops (other than scheduled shops within the meaning of that subsection) are classified as general shops.

#### **7 Exemption from Division 3 of Part 4 of the Act**

- (1) An application under section 78A (1) of the Act:
- (a) must be in writing, and
  - (b) must specify whether the exemption is sought:
    - (i) from all of the provisions of Division 3 of Part 4 of the Act and of the provisions of the regulations made for the purposes of that Division, or
    - (ii) from such provisions only of that Division or of those regulations as are specified in the application, and
  - (c) must specify the grounds on which the exemption is sought.
- (2) The fee to accompany an application under section 78A (1) of the Act is \$100.

#### **8 Partitioning off of goods in mixed shops**

- (1) For the purposes of section 82 of the Act, the prescribed manner of partitioning off goods is by enclosing the goods behind a partition that is constructed from strong and durable materials and is of sufficient height to prevent access from the part of the shop that is kept open.
- (2) The Director-General may from time to time approve materials for use in the construction of partitioning, and the dimensions of partitions to be used, for the purposes of this clause.
- (3) A partition that is constructed from approved materials and is of approved dimensions is taken to comply with the requirements of subclause (1).

#### **9 Savings**

- (1) Any act, matter or thing that, immediately before the repeal of the *Shops and Industries (Trading) Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.



Shops and Industries Regulation 2007

Clause 9

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- (2) In any award, agreement, order or determination in force under the *Industrial Relations Act 1996* immediately before the commencement of this Regulation, a reference to a class of shops referred to in:
- (a) Schedule 2 to the *Shops (Registration and Opening and Closing Hours) Regulations*, or
  - (b) Schedule 1 to the *Shops (Trading Hours) Regulation 1992*, or
  - (c) Schedule 1 to the *Shops (Trading Hours) Regulation 1997*, or
  - (d) Schedule 1 to the *Shops and Industries (Trading) Regulation 2002*,

continues to be a reference to the class of shops so referred to as if those Regulations had not been repealed.

## Shops and Industries Regulation 2007

Schedule 1 Trades taken to be usually carried on in certain shops

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## Schedule 1 Trades taken to be usually carried on in certain shops

(Clause 5)

Classes of shops	Kinds of goods
Audio shops	Records, compact discs or blank or pre-recorded audio cassettes or audio tapes
Book shops	Books, periodicals or magazines, whether or not sold in conjunction with the sale of stationery requisites
Chemists' shops	Drugs, chemicals, medicines or other pharmaceutical goods, where sold by a registered pharmacist under the <i>Pharmacy Act 1964</i>
Confectioners' shops	Confectionery
Cooked food shops, being:	
(a) cake and pastry shops	Cakes, pastries or pies
(b) cooked provision shops	Cooked or other processed meats, poultry or preserves
(c) refreshment shops	Light refreshments, milk, soft drinks, hot beverages or confectionery
(d) restaurants	Meals, snacks or hot or cold beverages, where sold for consumption on the premises
(e) take-away food shops	Meals, snacks or hot or cold beverages, where sold for consumption elsewhere than on the premises
Fish shops	Cooked or uncooked fish or shellfish
Flower shops	Cut flowers, plants, seeds, seedlings, wreaths, bouquets or other floral emblems
Fruit and vegetable shops	Fresh fruit or vegetables
Garden plant shops	Garden plants or shrubs, seeds, garden equipment or associated products
General shops	Any goods other than those prescribed in respect of: <ul style="list-style-type: none"> <li>(a) video shops (as referred to in clause 5 (a)), or</li> </ul>

## Shops and Industries Regulation 2007

Trades taken to be usually carried on in certain shops

Schedule 1

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<b>Classes of shops</b>	<b>Kinds of goods</b>
	(b) any other class of shops specified in this Schedule
Newsagencies	Newspapers, periodicals and magazines, whether or not sold in conjunction with the sale of books, stationery, cards, educational requisites or souvenirs
Pet shops	Live animals, birds, reptiles, fish, pet food or pet accessories
Souvenir shops	Souvenirs and gift items
Tobacconists' shops	Tobacco, cigarettes or cigars, whether or not sold in conjunction with the sale of pipes or other smoking requisites or accessories
Vehicle service shops	Motor spirit, motor oil or vehicle accessories
Vehicle shops	Cars, trucks, motorcycles, boats, caravans or trailers, whether or not sold in conjunction with the sale of accessories or parts

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New South Wales

# Smoke-free Environment Regulation 2007

under the

Smoke-free Environment Act 2000

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Smoke-free Environment Act 2000*.

REBA MEAGHER, M.P.,  
Minister for Health

## Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe the signs that occupiers of smoke-free areas are required to display under section 9 (1) of the *Smoke-free Environment Act 2000* (*the Act*),
- (b) to prescribe the manner in which such signs are required to be displayed,
- (c) to exempt certain public places from the requirements relating to the display of such signs (the exempt places are public places where persons would be reasonably expected to know that smoking is not permitted and in which persons do not usually smoke),
- (d) to prescribe guidelines in relation to determining what is an enclosed public place and when a covered outside area is considered to be substantially enclosed for the purposes of the Act.

This Regulation is made under the *Smoke-free Environment Act 2000*, including sections 9 and 23 (the general regulation-making power).

Smoke-free Environment Regulation 2007

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Smoke-free Environment Regulation 2007

Clause 1

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## Smoke-free Environment Regulation 2007

under the

Smoke-free Environment Act 2000

### 1 Name of Regulation

This Regulation is the *Smoke-free Environment Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Smoke-free Environment Regulation 2000* which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

(1) In this Regulation:

*the Act* means the *Smoke-free Environment Act 2000*.

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

### 4 Signs displayed in smoke-free zones

(1) For the purposes of section 9 (1) of the Act, signs that are clearly legible and contain each of the following are prescribed:

- (a) the smoking prohibited symbol (or an equivalent symbol) with a diameter of at least 90 mm,
- (b) the words "NO SMOKING" in letters of at least 20 mm in height,
- (c) a reference to the name of the Act,
- (d) the words "Penalties may apply".

(2) For the purposes of section 9 (1) of the Act, the prescribed manner of displaying signs within a smoke-free area is:

- (a) in such numbers, and
- (b) in positions of such prominence,

that they are likely to be seen by a person at a public entrance to, or within, the area.

Clause 5      Smoke-free Environment Regulation 2007

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- (3) In this clause:  
*smoking prohibited symbol* means the symbol designated in the Australian Standard entitled AS 1319—1994, *Safety signs for the occupational environment* to indicate where smoking is prohibited.

#### 5 Exemption from requirement to display signs

In accordance with section 9 (2) of the Act, any public place:

- (a) in respect of which persons would reasonably be expected to know, by custom or otherwise, that smoking is not permitted, and
  - (b) in which persons do not usually smoke,
- is exempt from section 9 (1) of the Act.

#### 6 Guidelines for determining what places are enclosed

- (1) The provisions of this clause prescribe guidelines in relation to determining what is an enclosed public place and when a covered outside area is considered to be substantially enclosed for the purposes of the Act.
- (2) A public place is considered to be substantially enclosed if the total area of the ceiling and wall surfaces (the *total actual enclosed area*) of the public place is more than 75 per cent of its total notional ceiling and wall area.
- (3) The *total notional ceiling and wall area* is the sum of:
  - (a) what would be the total area of the wall surfaces if:
    - (i) the walls were continuous (any existing gap in the walls being filled by a surface of the minimum area required for that purpose), and
    - (ii) the walls were of a uniform height equal to the lowest height of the ceiling, and
  - (b) what would be the floor area of the space within the walls if the walls were continuous as referred to in paragraph (a).
- (4) The following are to be included as part of the total actual enclosed area:
  - (a) any gap in a wall or ceiling that does not open directly to the outside,
  - (b) any door, window or moveable structure that is, or is part of, a ceiling or wall, regardless of whether the door, window or structure is open (other than the area of any locked-open door or window),
  - (c) the area of any locked-open doors or windows, but only that part of the total area of all such doors and windows that exceeds 15 per cent of the total notional ceiling and wall area.

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- (5) A gap in a wall or ceiling that opens directly to the outside (other than a gap caused by a door, window or moveable structure being open) is not to be included as part of the total actual enclosed area.
- (6) A gap, door, window or moveable structure required to be included as part of the total actual enclosed area is to be included as if the wall or ceiling were continuous and the gap, or the space occupied by the door, window or moveable structure, were filled by a surface of the minimum area required for that purpose.
- (7) In this clause:
- ceiling* includes a roof or any structure or device (whether fixed or moveable) that prevents or impedes upward airflow.
- locked-open door* or *locked-open window* means a door or window that opens directly to the outside and is locked fully open (that is, secured in its fully open position by means of a key operated lock).
- moveable structure* includes a retractable awning, umbrella or any other moveable structure or device.
- wall* includes any structure or device (whether fixed or moveable) that prevents or impedes lateral airflow.

## 7 Requirement to keep doors and windows locked open

- (1) The occupier of an enclosed public place who facilitates smoking in that place (in reliance on clause 6) as a result of doors or windows being locked fully open is guilty of an offence unless the doors or windows concerned are kept locked fully open for the entire hours of operation of the place on each day during which the occupier facilitates smoking there.
- Maximum penalty:
- (a) 5 penalty units, in the case of a natural person, or
- (b) 25 penalty units, in the case of a body corporate.
- (2) The *hours of operation* of a place are the hours during which the place is open as a public place.





New South Wales

# Strata Schemes (Freehold Development) Regulation 2007

under the

Strata Schemes (Freehold Development) Act 1973

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Strata Schemes (Freehold Development) Act 1973*.

ANTHONY KELLY, M.L.C.,  
Minister for Lands

## Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Strata Schemes (Freehold Development) Regulation 2002*, which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation deals with the following matters:

- (a) the form in which location plans, schedules of unit entitlements and floor plans are to be prepared (Part 2 and Schedules 1 and 2),
- (b) the form in which strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans are to be prepared (Part 3 and Schedules 1 and 2),
- (c) matters relating to staged development (Part 4),
- (d) administration sheets (Part 5 and Schedules 3 and 4),
- (e) miscellaneous matters, including lodgment of documents by hand and electronically, and fees payable to the Registrar-General in connection with the lodgment, examination, copying and issue of documents (Part 6 and Schedules 5 and 6),
- (f) other matters of a formal or ancillary nature (Part 1).

This Regulation is made under the *Strata Schemes (Freehold Development) Act 1973*, including sections 37C and 158 (the general regulation-making power) and the sections mentioned in the Regulation.

This Regulation (other than clause 33 and Schedule 6, which deal with fees) relates to matters of a machinery nature.

Strata Schemes (Freehold Development) Regulation 2007

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## Strata Schemes (Freehold Development) Regulation 2007

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Clause 1 Strata Schemes (Freehold Development) Regulation 2007

Part 1 Preliminary

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## Strata Schemes (Freehold Development) Regulation 2007

under the

Strata Schemes (Freehold Development) Act 1973

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Strata Schemes (Freehold Development) Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Strata Schemes (Freehold Development) Regulation 2002* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**administration sheet**, in relation to a plan, means the separate document, in the approved form, required to be lodged with the plan under Division 1 of Part 2 of the Act.

**plan** means a plan lodged in the office of the Registrar-General for registration as a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan.

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

- (a) under clause 23, is required to accompany a plan that creates an easement, profit à prendre, restriction or positive covenant, or
- (b) under clause 24, is required to accompany a plan that releases an easement or profit à prendre,

under section 88B of the *Conveyancing Act 1919*.

**the Act** means the *Strata Schemes (Freehold Development) Act 1973*.

**Note.** Section 3 (1) of the *Real Property Act 1900* defines **approved form** as a form approved by the Registrar-General for the purposes of the provision of the *Real Property Act 1900* or any other Act in relation to which the expression is used. Section 6 (1) of the *Strata Schemes (Freehold Development) Act 1973* requires that Act to be read and construed as if it formed part of the *Real Property Act 1900*.

Strata Schemes (Freehold Development) Regulation 2007

Clause 4

Preliminary

Part 1

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

#### 4 Application of other instruments

- (1) The provisions of this Regulation apply in addition to the provisions of:
- (a) Division 4 of Part 3 of, and Schedules 9 and 10 to, the *Conveyancing (General) Regulation 2003* (which deal with instruments under section 88B of the *Conveyancing Act 1919*), and
  - (b) the *Real Property Regulation 2003*, and
  - (c) any regulation replacing either of those Regulations.
- (2) The provisions of this Regulation prevail in the event of any inconsistency between those provisions and the provisions referred to in subclause (1).

**Note.** This Regulation includes provisions concerning plans for land the subject of a strata scheme. All such land is under the provisions of the *Real Property Act 1900*. That Act, and the regulations under that Act, include provisions concerning the preparation and lodgment of dealings for such land (including provisions requiring the payment of fees).

Clause 5	Strata Schemes (Freehold Development) Regulation 2007
Part 2	Location plans, schedules of unit entitlement and floor plans

## Part 2 Location plans, schedules of unit entitlement and floor plans

### 5 Location plans: sections 8, 8A and 9

- (1) A location plan must be in the approved form known as “Strata Plan Form 2” and show the following:
- (a) the external boundaries, and the lengths of the external boundaries, of the parcel,
  - (b) except as provided in subclause (2), the projection onto a horizontal plane of the external limits of:
    - (i) the building, or
    - (ii) any other structural feature used in the plan to define boundaries of lots or parts of lots, or
    - (iii) any lots or parts of lots not within the building,
  - (c) if:
    - (i) any part of the building, or
    - (ii) in the case of a lot that is not within the building but is defined by linear measurement from a part of the building or from a part of some other structural feature, any part of that lot,
 

is within 2 metres of a boundary of the parcel, the perpendicular distances from that part of the building or from that part of the structural feature, to that boundary of the parcel (being perpendicular distances that correspond to the connections referred to in clause 7 (1) (b) or (c)),
  - (d) the identity of:
    - (i) the building, by reference to the street number, the material of its external construction and the number of floors or levels, and
    - (ii) any other structural feature used in the plan to define lots or parts of lots, by reference to its nature and the material of its construction,
  - (e) the identities of all adjoining lands,
  - (f) if any encroachment exists, such survey information as the Registrar-General may require to indicate the relationship of the encroachment to the parcel boundary.
- (2) In the case of a proposed stratum parcel, the matter to be shown on a location plan by means of the projection referred to in subclause (1) (b) is to include the following information instead of that required by subclause (1) (b):

Strata Schemes (Freehold Development) Regulation 2007

Clause 6

Location plans, schedules of unit entitlement and floor plans

Part 2

- (a) the perimeter of the site of the building of which the proposed stratum parcel forms part,
  - (b) in relation to that perimeter, the external limits of:
    - (i) the building, and
    - (ii) the proposed stratum parcel,
  - (c) in relation to the boundaries of the proposed stratum parcel, such elevations, sections, levels and planes as in the Registrar-General's opinion are necessary to illustrate:
    - (i) the part of the building that will be the subject of the proposed stratum parcel, and
    - (ii) any other structural feature used in the plan to define boundaries of lots or parts of lots, and
    - (iii) any proposed lots or parts of lots not within the building.
- (3) All linear connections shown on a location plan must be referred to a stated surface of a floor, wall, ceiling or structural feature.
- (4) A location plan must comply with the requirements set out in Schedule 1 (in the case of a plan lodged by hand) or 2 (in the case of a plan lodged electronically).

**6 Schedules of unit entitlement: sections 8, 10 and 11**

- (1) The schedule of unit entitlement must be set out on the administration sheet in the panel provided.
- (2) A schedule of unit entitlement (other than a schedule of unit entitlement referred to in section 8A of the Act) must set out:
  - (a) in vertical columns in numerical sequence, a reference to the number of each lot in the strata scheme, and
  - (b) opposite each lot number, in whole numbers (excluding zero), the proposed unit entitlement of that lot, and
  - (c) the proposed aggregate unit entitlement as the numerical total of the proposed unit entitlement of all lots in the strata scheme.
- (3) Despite subclause (2) (a), the references to successively numbered lots having the same unit entitlement may be grouped in abbreviated form instead of being set out in vertical columns.

**7 Floor plans: sections 8, 8A and 9**

- (1) A floor plan must be in the approved form known as "Strata Plan Form 2", on a separate sheet from the location plan, and show the following:

Clause 7	Strata Schemes (Freehold Development) Regulation 2007
Part 2	Location plans, schedules of unit entitlement and floor plans

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- (a) by continuous lines, the boundaries of lots or whole separate parts of lots, so that boundaries defined by walls or other structural features are shown by a consistent thick line and boundaries defined by lines only are shown by a consistent thin line,
  - (b) if the boundary of a lot is defined by reference to the surface of a structural feature, other than the surface of a floor or ceiling, linear connections to that surface and such linear dimensions of that boundary as the Registrar-General may require,
  - (c) if the boundary of a lot is defined by reference to the surface of a floor or ceiling, such vertical connections and notations as are necessary to define that boundary,
  - (d) notations sufficient to ensure that each cubic space forming the whole of a lot or a whole separate part of a lot is fully defined (provided that if it is intended that a lot boundary is to be defined in accordance with the formula set out in section 5 (2) (a) of the Act, no notation need be made for the purpose of defining that boundary).
- (2) All linear connections shown on a floor plan must be referred to a stated surface of a floor, wall, ceiling or structural feature.
  - (3) No reference is to be made in a floor plan to the relationship of boundaries of lots to boundaries of the parcel, except to the extent required by subclause (4).
  - (4) For the purposes of sections 6 (3) (a) and 14 (4) (a) of the Act, so much of an encroachment as is intended for use with a proposed lot is to be indicated in a floor plan in such manner as the Registrar-General may require.
  - (5) Subclauses (3) and (4) do not apply to a floor plan for a stratum parcel.
  - (6) A floor plan must be shown from the lowest level to the highest level, unless prior approval has been given to showing the levels in another manner by the Registrar-General.
  - (7) A floor plan must show or refer to all occupations within an external part of a lot within 1 metre of the boundary of that lot and identify the occupations (other than any occupation that is a dividing fence within the meaning of the *Dividing Fences Act 1991* and that is made of timber, pre-painted steel, wire or similar materials but is not made of masonry) as either common property or part of the lot.
  - (8) A floor plan must comply with the requirements set out in Schedule 1 (in the case of a plan lodged by hand) or 2 (in the case of a plan lodged electronically).



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Clause 8

Strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans

Part 3

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### **Part 3 Strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans**

#### **8 Strata plans: section 8**

- (1) The administration sheet of a strata plan:
  - (a) must bear so much of the information and certification referred to in the approved form as is relevant to the plan, and
  - (b) must be signed by a duly authorised officer of the local council or by the accredited certifier (as appropriate) and by the surveyor by whom the plan has been prepared.
- (2) Each lot must be numbered consecutively, beginning with lot 1 and ending with a lot number corresponding with the total number of lots in the plan. If a numbered lot is shown as consisting of more than one part, each part must be described as part of that numbered lot.

**Note.** Section 8 of the Act provides that a strata plan must include a location plan, a floor plan, a schedule of unit entitlement, the by-laws being adopted for the scheme and the address at which documents may be served on the body corporate.

#### **9 Strata plans of subdivision: sections 8A and 9**

- (1) A strata plan of subdivision must be in the approved form.
- (2) The administration sheet of the plan:
  - (a) must bear so much of the information and certification referred to in the approved form as is relevant to the plan, and
  - (b) must be signed by a duly authorised officer of the local council or by the accredited certifier (as appropriate) and by the surveyor by whom the plan has been prepared.
- (3) Each lot resulting from the subdivision must be numbered consecutively, the lowest lot number being greater by one than the highest number of any existing lot in the strata scheme. If a numbered lot is shown as consisting of more than one part, each part must be described as part of that numbered lot.

#### **10 Strata plans of consolidation: section 12**

- (1) A strata plan of consolidation must be in the approved form and must include a floor plan.
- (2) The administration sheet of the plan:
  - (a) must bear so much of the information and certification referred to in the approved form as is relevant to the plan, and

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Part 3	Strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans

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(b) must be signed by the surveyor by whom the plan has been prepared.

- (3) Each lot resulting from the consolidation must be numbered consecutively, the lowest lot number being greater by one than the highest number of any existing lot in the strata scheme. If a numbered lot is shown as consisting of more than one part, each part must be described as part of that numbered lot.

#### **11 Building alteration plans: section 14**

- (1) A building alteration plan must be in the approved form and must include a floor plan and, if the Registrar-General so requires, a plan in the nature of a location plan.
- (2) The administration sheet of the plan:
- (a) must bear so much of the information and certification referred to in the approved form as is relevant to the plan, and
  - (b) must be signed by the surveyor by whom the plan has been prepared.
- (3) The Registrar-General may permit specified survey information of an encroachment, sufficient to define the perimeter of a parcel, to be shown on a location plan.
- (4) Each lot must be numbered and identified in accordance with its existing numbering and identity in the strata scheme.
- (5) A certificate given by a surveyor under section 14 (1) (d) of the Act must be in the approved form.

#### **12 Alteration of plans lodged by hand**

- (1) The Registrar-General may at his or her discretion and after giving notice to such persons as he or she may think fit:
- (a) number or re-number any lots in a plan lodged by hand, whether before or after registration, and
  - (b) before registration of a plan lodged by hand, supply omissions and correct obvious errors in the plan.
- (2) If an alteration to a plan lodged by hand is to be made before registration of the plan and the alteration is not made by the Registrar-General under subclause (1), the alteration must be authenticated by the original administration sheet being signed and dated:
- (a) by the surveyor by whom the plan has been prepared, and
  - (b) if the alteration concerns the definition of a lot boundary or affects the proportional unit entitlement of any lot in the strata

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scheme, by a duly authorised officer of the local council or by the accredited certifier (as appropriate), and

- (c) by the registered proprietor, if the Registrar-General so requires.

### 13 Alteration of plans lodged electronically

- (1) The Registrar-General may, at his or her discretion and after giving notice to such persons as he or she may think fit:
  - (a) before or after registration of a plan lodged electronically, direct that any lots in the plan be numbered or renumbered, and
  - (b) before registration of a plan lodged electronically, direct that anything omitted from the plan be added to the plan or that any obvious error in the plan be corrected, and
  - (c) require a replacement plan in a Tagged Image File Format (TIFF) approved by the Registrar-General to be submitted showing alterations in accordance with any directions given under paragraph (a) or (b).
- (2) If the alteration is to be made before registration of the plan and either concerns the definition of a lot boundary or affects the proportional unit entitlement of any lot in the strata scheme:
  - (a) the original administration sheet is to be endorsed with a statement identifying the alteration, and
  - (b) the endorsed administration sheet is to be re-signed by a duly authorised officer of the local council or by an accredited certifier (as appropriate), and
  - (c) the alteration must be authenticated by the original administration sheet being signed and dated by the registered proprietor, if the Registrar-General so requires, and
  - (d) a new image of the endorsed and re-signed administration sheet is to be created and lodged with the Registrar-General.

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Part 4                Staged development

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## **Part 4    Staged development**

### **14    Strata development contracts**

- (1) The description in a strata development contract referred to in section 28C (2) (c) of the Act must deal separately with each of the following matters in relation to each stage of the development:
  - (a) the types of buildings proposed, the proposed uses of the lots in the buildings, the proposed building style and the proposed height and density of the buildings,
  - (b) any common property amenities that will be provided,
  - (c) the number of lots to be created,
  - (d) details of access and construction zones and accompanying rights over common property and development lots,
  - (e) the manner in which it is proposed to landscape the parcel,
  - (f) building materials and finishes to be used,
  - (g) details of any vertical staging, and of the insurance cover that applies to any such staging,
  - (h) whether the developer's liability for expenses relating to the use or maintenance of the common property is to be determined by unit entitlement or differently and details of how the liability is to be determined, if it is to be determined differently,
  - (i) details of any by-laws, management agreements, covenants, easements or dedications that will be created or entered into.
- (2) The description in a strata development contract referred to in section 28C (2) (d) of the Act must deal separately with each of the following matters in relation to each stage of the development:
  - (a) the types of buildings proposed, the proposed uses of the lots in the buildings, the proposed building style and the proposed height and density of the buildings,
  - (b) the maximum number of lots to be created,
  - (c) details of any vertical staging, and of the insurance cover that applies to any such staging,
  - (d) whether the developer's liability for expenses relating to the use or maintenance of the common property is to be determined by unit entitlement or differently and details of how the liability is to be determined, if it is to be determined differently,
  - (e) details of any by-laws, management agreements, covenants, easements or dedications that will be created or entered into.

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Clause 15

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### 15 Execution by developer on behalf of body corporate

If a dealing, plan or other instrument is executed by a developer on behalf of a body corporate under section 28N (3) of the Act for the purpose of giving effect to a decision about a development concern:

- (a) the execution must be in the approved form, and
- (b) a statutory declaration in the approved form specifying the circumstances in which the instrument was executed must be lodged by hand in conjunction with each dealing, plan or other instrument, whether or not any of those instruments is lodged electronically.

### 16 Notices relating to development concerns

A motion that relates to a development concern must be identified by the matter “(THIS MOTION RELATES TO A DEVELOPMENT CONCERN—SEE SECTIONS 28N, 28O AND 28P OF THE STRATA SCHEMES (FREEHOLD DEVELOPMENT) ACT 1973)” appearing after the proposed wording of the motion in the following notices and requisitions:

- (a) a notice served on the secretary of the council of the body corporate requiring inclusion in the agenda of the next general meeting of the body corporate of such a motion,
- (b) a notice served on the secretary or, in the absence of the secretary, another member of the council of the body corporate requiring the convening of an extraordinary general meeting to consider such a motion,
- (c) a requisition served on the secretary or, in the absence of the secretary, another member of the council of the body corporate requiring a meeting of the council to be convened to consider such a motion,
- (d) notice of a meeting of the body corporate or of the council of the body corporate at which such a motion is to be considered.

### 17 Insurance for vertical staged development

- (1) For the purposes of clause 8 of Schedule 1BA to the Act, a policy of indemnity must indemnify the developer against at least the following:
  - (a) contract works claims up to a value at least equivalent to the cover provided by the body corporate’s damage policy maintained under section 83 or 84 of the *Strata Schemes Management Act 1996*, subject only to such deductibles, exclusions and other terms and conditions as are reasonable and appropriate for contract works insurance,

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- (b) public liability claims up to a value of at least \$15,000,000, subject only to such deductibles, exclusions and other terms and conditions as are reasonable and appropriate for public liability insurance.
- (2) This clause does not affect any obligation of a developer to effect and maintain insurance required by or under any other law, such as the *Workers Compensation Act 1987*.
- (3) In this clause:
- contract works claim*** means a claim for accidental damage to buildings and works for the time being forming part of the parcel (including buildings erected and works carried out under the strata development contract), arising out of or resulting from the carrying out of the permitted development.
- public liability claim*** means a claim for damages because of death or personal injury for which the developer is liable as an occupier of the parcel.

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Clause 18

Administration sheets

Part 5

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## Part 5 Administration sheets

**Note.** If a plan is lodged by hand but the signatures and consents required are not endorsed on the plan, or a plan is lodged electronically, the signatures and consents required must be endorsed on the separate document required by Division 1 of Part 2 of the Act to be lodged with the plan (the **administration sheet**) and that form must be lodged in the same way as the plan. The administration sheet must accompany all plans and be used for all signatures and seals.

### 18 Content of the administration sheet

- (1) The administration sheet must include the plan heading and the surveyor's reference in the appropriate panels on each sheet of the approved form.
- (2) The administration sheet must contain all certificates required by the Registrar-General, endorsed in the appropriate panels on that document.

### 19 Administration sheet to comply with Schedule 3 or Schedules 3 and 4 requirements

- (1) An administration sheet that is lodged by hand at the office of the Registrar-General must comply with the requirements set out in Schedule 3.
- (2) An administration sheet can be lodged electronically only if:
  - (a) the plan to which it relates is also lodged electronically, and
  - (b) the administration sheet complies with the requirements set out in Schedules 3 and 4.

### 20 Refusal to accept an administration sheet

The Registrar-General may refuse to accept an administration sheet that, in the opinion of the Registrar-General, does not comply with, or is not lodged in accordance with, this Part.

### 21 Registration of an administration sheet

On registration of a plan that is accompanied by an administration sheet, the administration sheet is to be registered in the register of plans referred to in the *Conveyancing (General) Regulation 2003*.

Clause 22 Strata Schemes (Freehold Development) Regulation 2007

Part 6 Miscellaneous

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## Part 6 Miscellaneous

### 22 Notations relating to easements, profits à prendre, restrictions on the use of land and positive covenants

- (1) A notation referring to an intention to create or release an easement or profit à prendre, or to create a restriction or positive covenant, must not be entered on a plan unless it is intended that it is to be created or released pursuant to section 88B of the *Conveyancing Act 1919*.
- (2) However, a plan may designate the site of a proposed easement, profit à prendre, restriction or positive covenant that is intended to be created (otherwise than by registration of the plan) by an instrument of grant or reservation, or the proposed varied site of an existing easement or profit à prendre that is intended to be varied by an instrument of variation, if:
  - (a) the designation of the site of the proposed easement, profit à prendre, restriction or positive covenant, or of the proposed variation of existing easement or profit à prendre, includes the word “proposed” or an abbreviation of that word, and
  - (b) no other statement of intention to create or vary the easement or profit à prendre, or to create the restriction or positive covenant, is entered elsewhere on the plan.
- (3) The designation of the site of a proposed easement, profit à prendre, restriction or positive covenant in accordance with subclause (2) does not, for the purposes of section 88B of the *Conveyancing Act 1919*, indicate in the prescribed manner an intention to create an easement.
- (4) A notation referring to the proposed varied site of an existing easement or profit à prendre must not be entered on a plan unless it is intended that the easement or profit à prendre is to be varied pursuant to section 47 (5A) of the *Real Property Act 1900*.

### 23 Indication of creation of easement

- (1) If a plan is intended, on registration, to create an easement, profit à prendre, restriction or positive covenant pursuant to section 88B of the *Conveyancing Act 1919*:
  - (a) a statement of intention to create the easement, profit à prendre, restriction or positive covenant must be legibly printed in the panel provided on the approved form on the administration sheet, and
  - (b) the site of any proposed easement must be shown in the plan drawing area of the approved form with sufficient indication of the nature of the easement to distinguish it from any other easement intended to be created on registration of the plan, and



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- (c) if any proposed easement is to be limited in height or depth, the levels of the limits must be defined as required by the Registrar-General.
  - (2) A statement of intention referred to in subclause (1) (a) must neither incorporate the terms of the easement, profit à prendre, restriction or positive covenant nor specify the lots intended to be benefited and burdened.
  - (3) The plan must be accompanied by a section 88B instrument in the approved form that complies with Division 4 of Part 3 of, and the requirements set out in Schedule 9 to, the *Conveyancing (General) Regulation 2003* and is lodged in the same manner as the plan. If the instrument is lodged electronically, the requirements set out in Schedule 10 to that regulation must also be complied with.

#### **24 Indication of release of easement**

- (1) If a plan is intended, on registration, to release an easement or profit à prendre (in respect of some or all of the land to which it applies) pursuant to section 88B of the *Conveyancing Act 1919*:
  - (a) a statement of intention to release the easement or profit à prendre must be legibly printed in the panel provided on the approved form on the administration sheet, and
  - (b) sufficient information must be shown on the plan, or included in the relevant section 88B instrument, to indicate the extent of the release.
- (2) The plan must be accompanied by a section 88B instrument in the approved form that complies with Division 4 of Part 3 of, and the requirements set out in Schedule 9 to, the *Conveyancing (General) Regulation 2003* and is lodged in the same manner as the plan. If the instrument is lodged electronically, the requirements set out in Schedule 10 to that regulation must also be complied with.

#### **25 Lodgment of plans by hand**

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

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- (c) completed plan checklists in the approved form, if required by the Registrar-General.

**Note.** Division 1 of Part 2 of the Act requires a plan to be lodged with a separate document in the approved form relating to the plan. Such a document is called an **administration sheet** in this Regulation. Part 5 makes provision for administration sheets.

- (3) If the Registrar-General so requires, a plan must also be accompanied by:
- (a) in the case of a strata plan, the certificate of title or Crown grant for the land comprising the parcel, and
  - (b) in the case of a strata plan of subdivision or a strata plan of consolidation, the certificates of title for the land comprised in the plan and for the common property comprised in the strata scheme, and
  - (c) in the case of a building alteration plan, the certificate of title for the common property comprised in the strata scheme.
- (4) The Registrar-General will not require a plan to be accompanied by a certificate of title or Crown grant if evidence is furnished to his or her satisfaction that the certificate of title or Crown grant is in his or her custody, and that he or she has authority to use that instrument in connection with registration of the plan, or that notice has been served under section 15 (1) (d) of the Act.
- (5) If an original of a plan bears evidence of a strata certificate:
- (a) the print of each sheet of the plan referred to in subclause (2) (b) must contain particulars of the certificate under the original signature of the duly authorised officer of the council or of the accredited certifier (as appropriate) who gave the certificate, and
  - (b) the administration sheet must be signed by the duly authorised officer of the council or of the accredited certifier (as appropriate) who gave the certificate.

## 26 Lodgment of plans electronically

- (1) An authorised person lodging a plan electronically for registration in the office of the Registrar-General must lodge the plan in accordance with the e-plan system established by section 195AA of the *Conveyancing Act 1919* or otherwise with the consent of the Registrar-General.
- (2) Plan lodgment details must be provided in the manner required by the Registrar-General. The plan must comply with the requirements set out in Schedule 2 and be lodged in accordance with the relevant requirements of that Schedule.
- (3) The plan file must be accompanied by files comprising:

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- (a) such instruments and data files as the Registrar-General may require, and
  - (b) completed plan checklists in the approved form, if required by the Registrar-General.

**Note.** Division 1 of Part 2 of the Act requires a plan to be lodged with a separate document in the approved form relating to the plan. Such a document is called an **administration sheet** in this Regulation. Part 5 makes provision for administration sheets.

- (4) The Registrar-General may permit a plan to be accompanied by:
  - (a) approved forms, and
  - (b) the consents referred to in subclause (5) (d).
- (5) The following original documents must be lodged by hand at the office of the Registrar-General, and may not be lodged electronically:
  - (a) in the case of a strata plan, the certificate of title or Crown grant for the land comprising the parcel,
  - (b) in the case of a strata plan of subdivision or a strata plan of consolidation, the certificates of title for the land comprised in the plan and for the common property comprised in the strata scheme,
  - (c) in the case of a building alteration plan, the certificate of title for the common property comprised in the strata scheme,
  - (d) such consents in writing to the registration of the plan signed by a lessee, caveator, judgment creditor or other person, as may be required by the Registrar-General,
  - (e) such other certificates of title, office copies of court orders, powers of attorney, statutory declarations and other original documents as may be required by the Registrar-General.
- (6) The Registrar-General will not require a certificate of title or Crown grant to be lodged if evidence is furnished to his or her satisfaction that the certificate of title or Crown grant is in his or her custody, and that he or she has authority to use that instrument in connection with registration of the plan, or that notice has been served under section 15 (1) (d) of the Act.

## 27 Lodgment of other documents electronically

Where a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan that the Registrar-General permits to be lodged electronically is accompanied by other documents, those documents must also be lodged electronically and comply with the requirements set out in Schedule 5, except those documents referred to in clause 26 (5).

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## 28 Councils' strata certificates and notices

- (1) A strata certificate issued or notice given by a local council under section 37 (1), (1A), (2), (3), (4) or (5) of the Act must be in the approved form.
- (2) A notice under section 37 (2) of the Act must be accompanied by a copy of a plan illustrating the proposed subdivision, identified by the signature of the duly authorised officer of the council who signed the notice.
- (3) A local council must keep (as part of the register kept by the council under clause 264 or 265 of the *Environmental Planning and Assessment Regulation 2000*) a record of the following:
  - (a) the date of issue of each strata certificate issued by the council under section 37 of the Act,
  - (b) the date of issue of each strata certificate issued by an accredited certifier under section 37A of the Act in relation to a building or proposed building within the area of the council.
- (4) A local council must keep the following documents for each strata certificate issued by it under section 37 of the Act, or by an accredited certifier under section 37A of the Act, in relation to a building or proposed building within the area of the council:
  - (a) a copy of the strata certificate,
  - (b) a copy of the proposed strata plan, strata plan of subdivision or notice of conversion to which the strata certificate relates,
  - (c) copies of any related documents submitted to the council by the applicant for the strata certificate in connection with the application.
- (5) A local council must make the documents kept by it under subclause (4) available for inspection at its principal office, free of charge, during the council's ordinary office hours. A copy of any such document may be made on payment of a reasonable copying charge set by the council.

## 29 Accredited certifier certificates

- (1) A strata certificate issued by an accredited certifier under section 37A of the Act must be in the approved form.
- (2) An accredited certifier must within 7 days after issuing a strata certificate send a copy of the following documents to the consent authority that granted the relevant development consent and to the local council (if the local council is not the consent authority):
  - (a) the strata certificate,

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(b) the proposed strata plan, strata plan of subdivision or notice of conversion concerned,

(c) any other related documents submitted to the accredited certifier by the applicant for the strata certificate in connection with the application.

(3) Clause 8 (Record keeping by accredited certifiers) of the *Building Professionals Regulation 2007* applies (as a requirement of this Regulation) in respect of strata certificates and applications for strata certificates in the same way as it applies in respect of certificates and applications for certificates referred to in that clause.

### 30 Body corporate certificates

(1) A certificate given by a body corporate under section 9 (3) (d) (i), 11 (b), 13 (2) (b) (i), 19 (3) (b), 28 (4) or 37 (2), (4) (a) or (5) (a) of the Act must be in the approved form.

(2) For the purpose of identification, a plan in respect of which a certificate is given under section 37 (2) of the Act must be signed by each person who attested the affixing of the seal of the body corporate on the certificate.

### 31 Category 1 fire safety provisions: section 37

For the purposes of section 37 of the Act, the following provisions of the *Building Code of Australia* are prescribed as **Category 1 fire safety provisions**, namely, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.

### 32 Periods for retention of documents: section 49

For the purposes of section 49 (2) (c) of the Act, the period prescribed is the period of 12 months commencing with the day on which the plan or other document was registered or recorded.

### 33 Fees

(1) The fees specified opposite the matters listed in Schedule 6 are payable to the Registrar-General in respect of those matters.

(2) A fee is payable before the service to which the fee relates is provided or at such time, and in accordance with such conditions, as the Registrar-General may agree with the person paying the fee.

### 34 Savings

Any act, matter or thing that, immediately before the repeal of the *Strata Schemes (Freehold Development) Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

## Strata Schemes (Freehold Development) Regulation 2007

## Schedule 1 Requirements for plans lodged by hand

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**Schedule 1 Requirements for plans lodged by hand**

(Clauses 5 and 7)

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

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

**2 Plan drawing sheet dimensions**

Each plan sheet must have external dimensions of 420 millimetres by 297 millimetres (standard A3 size).

**3 Margins**

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

**4 Lettering**

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

**5 Use of colouring and edging prohibited**

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

## Strata Schemes (Freehold Development) Regulation 2007

## Requirements for plans lodged by hand

## Schedule 1

**6 Clarity of detail**

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

**7 Alterations**

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

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

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 5 sheets must be numbered "Sheet 1 of 5 sheets" and "Sheet 2 of 5 sheets", respectively).
- (2) Each sheet of a location plan or floor plan must contain a north point (directed upwards).
- (3) No information (other than the plan and any separate diagrams and tabulations of dimensions relating to the plan) is to appear within the plan drawing area of a plan sheet.

**9 Linear dimensions**

- (1) Linear measurements must be expressed in metres without any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

**10 Area dimensions**

- (1) Area measurements must be expressed as follows:
  - (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol "ha",
  - (c) areas of 10,000 hectares or more must be expressed in square kilometres, accompanied by the symbol "km<sup>2</sup>".

## Strata Schemes (Freehold Development) Regulation 2007

## Schedule 1 Requirements for plans lodged by hand

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- (2) A statement may be added to the plan stating that all areas are approximate.
  - (3) The total area of a lot:
    - (a) must be shown within or relevant to the most significant part of the lot, and
    - (b) must be the exact mathematical total of the areas shown elsewhere in the plan within or relevant to the component parts of that lot.

**11 Bearings and angles**

- (1) Bearings must not be shown on any plan sheet unless they form part of permitted survey information.
- (2) Angular relationships must be established by linear dimensions and rectangular offsets only, and not by use of angular dimensions, except in the case of an angular dimension of 90°, which may be shown as such on a floor plan.

**12 Reduction ratio**

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

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

- (1) A location plan must contain sufficient information to define the site of:
  - (a) any easement, profit à prendre, restriction or positive covenant that is intended to be created as a consequence of the registration of the plan and that affects common property not within a building, and
  - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction or positive covenant, or proposed variation or partial release of an easement or profit à prendre, that affects common property not within a building,

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



## Strata Schemes (Freehold Development) Regulation 2007

## Requirements for plans lodged by hand

## Schedule 1

- 
- (2) A floor plan must contain sufficient information to define the site of:
    - (a) any easement, profit à prendre, restriction or positive covenant intended to be created as a consequence of the registration of the plan that affects a lot in the plan or common property within a building, and
    - (b) any proposed easement over a lot in the plan or common property within a building.
  - (3) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object which is underground or is within or beneath an existing building, it is sufficient to indicate on the location plan or floor plan (as the case may be) the approximate position of the easement.

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

- (1) A location plan must:
  - (a) contain sufficient information to define the site, nature and origin of any existing easement, profit à prendre, restriction or positive covenant affecting a parcel, and
  - (b) wherever possible, show the relationship of the easement, profit à prendre, restriction or positive covenant to the boundaries of the parcel.
- (2) If an easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object which is underground or is within or beneath an existing building, it is sufficient to indicate on the location plan the approximate position of the easement.
- (3) A floor plan may show sufficient information to define the site of an existing easement that is located within a building if the Registrar-General agrees that the enjoyment of the easement would be reliant on its position being shown in such a manner.
- (4) In this clause:

*origin*, in relation to an existing easement, means the Gazette reference or registration number of the instrument or plan by which the easement was granted, reserved, notified or otherwise created.

**15 Signatures not to appear**

The plan drawing sheets are not to show any signatures or seals.

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

Strata Schemes (Freehold Development) Regulation 2007

Schedule 2 Requirements for plans lodged electronically

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## Schedule 2 Requirements for plans lodged electronically

(Clauses 5, 7 and 26)

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

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

### 2 Plan drawing sheet dimensions

Each plan sheet must have external dimensions of 420 millimetres in width by 297 millimetres in length (standard A3 size).

### 3 Margins

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

### 4 Lettering

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

## Strata Schemes (Freehold Development) Regulation 2007

## Requirements for plans lodged electronically

## Schedule 2

**5 Use of colouring and edging prohibited**

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

**6 Clarity of detail**

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

**7 Alterations**

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

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

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 5 sheets must be numbered "Sheet 1 of 5 sheets" and "Sheet 2 of 5 sheets", respectively).
- (2) Each sheet of a location plan or floor plan must contain a north point (directed upwards).
- (3) No information (other than the plan and any separate diagrams and tabulations of dimensions relating to the plan) is to appear within the plan drawing area of a plan sheet.

**9 Linear dimensions**

- (1) Linear measurements must be expressed in metres, without rounding or any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

**10 Area dimensions**

- (1) Area measurements must be expressed as follows:
  - (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol "ha",

## Strata Schemes (Freehold Development) Regulation 2007

## Schedule 2 Requirements for plans lodged electronically

- 
- (c) areas of 10,000 hectares or more must be expressed in square kilometres, accompanied by the symbol “km<sup>2</sup>”.
  - (2) A statement may be added to the plan stating that all areas are approximate.
  - (3) The total area of a lot:
    - (a) must be shown within or relevant to the most significant part of the lot, and
    - (b) must be the exact mathematical total of the areas shown elsewhere in the plan within or relevant to the component parts of that lot.

**11 Bearings and angles**

- (1) Bearings must not be shown on any plan sheet unless they form part of permitted survey information.
- (2) Angular relationships must be established by linear dimensions and rectangular offsets only, and not by use of angular dimensions, except in the case of an angular dimension of 90°, which may be shown as such on a floor plan.

**12 Reduction ratio**

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

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

- (1) A location plan must contain sufficient information to define the site of:
  - (a) any easement, profit à prendre, restriction or positive covenant that is intended to be created as a consequence of the registration of the plan and that affects common property not within a building, and
  - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction or positive covenant, or proposed variation or partial release of an easement or profit à prendre, that affects common property not within a building,

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

## Strata Schemes (Freehold Development) Regulation 2007

## Requirements for plans lodged electronically

## Schedule 2

- 
- (2) A floor plan must contain sufficient information to define the site of:
    - (a) any easement, profit à prendre, restriction or positive covenant intended to be created as a consequence of the registration of the plan that affects a lot in the plan or common property within a building, and
    - (b) any proposed easement over a lot in the plan or common property within a building.
  - (3) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object which is underground or is within or beneath an existing building, it is sufficient to indicate on the location plan or floor plan (as the case may be) the approximate position of the easement.

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

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

**15 Signatures not to appear**

The plan drawing sheets are not to show any signatures or seals.

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

## Strata Schemes (Freehold Development) Regulation 2007

## Schedule 3 Requirements for administration sheet

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**Schedule 3 Requirements for administration sheet**

(Clause 19)

**Note.** An administration sheet must be in the approved form (see Division 1 of Part 2 of the Act). All signatures and seals must be shown on the administration sheet. No signatures or seals are to appear on the plan drawing sheets. The completed administration sheet forms part of the plan and must be lodged with and in the same manner as the plan.

**1 Use of approved form**

- (1) An administration sheet must be in the approved form.
- (2) Any signatures, seals or certificates that cannot satisfactorily be shown on one sheet may be shown on one or more additional sheets in the approved form. The total number of additional sheets must not be more than 5 unless the Registrar-General otherwise approves.

**2 Paper**

The paper used must be:

- (a) white and free from discolouration and blemishes, and
- (b) archival quality, and
- (c) 297 millimetres in length by 210 millimetres in width (standard A4), or such other paper as may be approved by the Registrar-General.

**3 Margins**

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

**4 Lettering**

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

Strata Schemes (Freehold Development) Regulation 2007

Requirements for administration sheet

Schedule 3

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## **5 Alterations**

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

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

If the administration sheet comprises more than one sheet:

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

Strata Schemes (Freehold Development) Regulation 2007

Schedule 4 Requirements for lodging administration sheet electronically

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## Schedule 4 Requirements for lodging administration sheet electronically

(Clause 19 (2))

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

- (1) Each sheet of the completed paper administration sheet complying with Schedule 3 that bears original signatures and seals is to be scanned by the lodging party and an image created in a Tagged Image File Format (TIFF) approved by the Registrar-General.
- (2) Each image must be created to the following specifications:
  - (a) **Size**—true to the approved form size (standard A4),
  - (b) **Colour**—must be black and white (monochrome),
  - (c) **Resolution**—200 dots per inch (dpi),
  - (d) **Compression**—CCITT Group 4.

### 2 Multiple sheets

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

### 3 Lodging procedure

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

**Note.** The completed paper administration sheet, bearing original signatures and seals, must be retained by the lodging party for a period of at least 12 months following the date of registration of the plan because the lodging party may be required, under section 49 of the Act, to produce that sheet to the Registrar-General within that period.



Strata Schemes (Freehold Development) Regulation 2007

Requirements for lodging other documents electronically

Schedule 5

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## Schedule 5 Requirements for lodging other documents electronically

(Clause 27)

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

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

### 2 Multiple sheets

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

### 3 Lodging procedure

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

**Note.** The completed paper document, bearing original signatures and seals, must be retained by the lodging party for a period of at least 12 months following the date of registration of the plan because the lodging party may be required, under section 49 of the Act, to produce that document to the Registrar-General within that period.

## Strata Schemes (Freehold Development) Regulation 2007

## Schedule 6 Fees

**Schedule 6 Fees**

(Clause 33)

	\$
1 On lodgment of a plan for registration:	
(a) comprising no more than 2 lots	1000.00
(b) comprising more than 2 lots	1200.00
And, in addition, for each quarter-hour or part of a quarter-hour in excess of:	
(a) the first 4 hours occupied in the examination of the plan referred to in paragraph (a) above	50.00
(b) the first 6 hours occupied in the examination of the plan referred to in paragraph (b) above	50.00
In addition, for the preparation and supply of a certificate of title for common property in a strata scheme	120.00
In addition, for each lot shown on the plan	120.00
And, if the plan is accompanied by a copy of the proposed by-laws for the strata scheme, an additional	180.00
And, if the plan is accompanied by a section 88B instrument, for each easement, restriction on the use of land, positive covenant or profit à prendre to be created, irrespective of the number of lots burdened or benefited, an additional	90.00
And, if the plan is accompanied by a section 88B instrument, for each easement to be released, irrespective of the number of lots burdened or benefited, an additional	90.00
And, if the plan is a strata plan of consolidation—for each folio of the Register to be consolidated, an additional	16.50
2 On lodgment of a substituted plan or any sheet of such a plan	90.00
3 On lodgment of a section 88B instrument in substitution for another such instrument or part of such instrument	Such fee as would be appropriate to the instrument as an original lodgment fee
4 On lodgment of an application to amend a plan	90.00
In addition, if the application involves the amendment of a certificate of title or folio of the Register:	

## Strata Schemes (Freehold Development) Regulation 2007

## Fees

## Schedule 6

		\$
	(a) for the first certificate or folio	90.00
	(b) for each certificate or folio after the first	12.50
5	For examining a plan before lodgment:	
	(a) comprising no more than 2 lots	1100.00
	(b) comprising more than 2 lots	1320.00
	In addition, for each quarter-hour or part of a quarter-hour in excess of:	
	(a) the first 4 hours occupied in the examination of the plan referred to in paragraph (a) above	55.00
	(b) the first 6 hours occupied in the examination of the plan referred to in paragraph (b) above	55.00
6	On lodgment of a notification of change of by-laws	90.00
7	On lodgment of a notice of conversion	90.00
8	On lodgment of a notification of change of address for service of notices on an owners corporation	90.00
9	On lodgment of an order varying a strata scheme	90.00
10	On lodgment of an application for an order terminating a strata scheme	90.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in examining the application	50.00
11	On lodgment of an order terminating a strata scheme	90.00
12	On lodgment of a certificate that the initial period has expired, given by an owners corporation pursuant to section 9 (3) (d) (i), 13 (2) (b) (i) or 28 (4) (b) of the Act	90.00
13	On lodgment of a strata management statement	300.00
14	On lodgment for registration of a strata development contract	200.00
15	On lodgment for registration of an amendment to a strata development contract	90.00
16	For supplying a copy of a document or part of a document (other than a certified copy) in the custody of the Registrar-General:	
	(a) to any person attending an office of the Department of Lands	12.50

## Strata Schemes (Freehold Development) Regulation 2007

## Schedule 6 Fees

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		\$
(b)	by electronic means to any agent licensed by the Department of Lands	6.20
(c)	to any person by some other means	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in providing the service
17	On lodgment of any document not otherwise referred to in this Schedule	90.00

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New South Wales

# Strata Schemes (Leasehold Development) Regulation 2007

under the

Strata Schemes (Leasehold Development) Act 1986

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Strata Schemes (Leasehold Development) Act 1986*.

ANTHONY KELLY, M.L.C.,  
Minister for Lands

## Explanatory note

The object of this Regulation is to remake, without substantial alteration, the *Strata Schemes (Leasehold Development) Regulation 2002*, which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The new Regulation deals with the following matters:

- (a) the form in which location plans, schedules of unit entitlements and floor plans are to be prepared (Part 2 and Schedules 1 and 2),
- (b) the form in which strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans are to be prepared (Part 3 and Schedules 1 and 2),
- (c) matters relating to staged development (Part 4),
- (d) administration sheets (Part 5 and Schedules 3 and 4),
- (e) miscellaneous matters, including lodgment of documents by hand and electronically, and fees payable to the Registrar-General in connection with the lodgment, examination, copying and issue of documents (Part 6 and Schedules 5 and 6),
- (f) other matters of a formal or ancillary nature (Part 1).

This Regulation is made under the *Strata Schemes (Leasehold Development) Act 1986*, including sections 66C and 196 (the general regulation-making power) and the sections mentioned in the Regulation.

This Regulation (other than clause 35 and Schedule 6, which deal with fees) relates to matters of a machinery nature.

Strata Schemes (Leasehold Development) Regulation 2007

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## Strata Schemes (Leasehold Development) Regulation 2007

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Clause 1	Strata Schemes (Leasehold Development) Regulation 2007
Part 1	Preliminary

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## Strata Schemes (Leasehold Development) Regulation 2007

under the

Strata Schemes (Leasehold Development) Act 1986

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Strata Schemes (Leasehold Development) Regulation 2007*.

#### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Strata Schemes (Leasehold Development) Regulation 2002* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

**administration sheet**, in relation to a plan, means the separate document, in the approved form, required to be lodged with the plan under Division 1 of Part 2 of the Act.

**plan** means a plan lodged in the office of the Registrar-General for registration as a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan.

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

- (a) under clause 22, is required to accompany a plan that creates an easement, profit à prendre, restriction or positive covenant, or
- (b) under clause 23, is required to accompany a plan that releases an easement or profit à prendre,

under section 88B of the *Conveyancing Act 1919*.

**the Act** means the *Strata Schemes (Leasehold Development) Act 1986*.

**Note.** Section 3 (1) of the *Real Property Act 1900* defines **approved form** as a form approved by the Registrar-General for the purposes of the provision of the *Real Property Act 1900* or any other Act in relation to which the expression is used. Section 5 (1) of the *Strata Schemes (Leasehold Development) Act 1986* requires that Act to be read and construed as if it formed part of the *Real Property Act 1900*.



Strata Schemes (Leasehold Development) Regulation 2007

Clause 4

Preliminary

Part 1

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

#### 4 Application of other instruments

- (1) The provisions of this Regulation apply in addition to the provisions of:
- (a) Division 4 of Part 3 of, and Schedules 9 and 10 to, the *Conveyancing (General) Regulation 2003* (which deal with instruments under section 88B of the *Conveyancing Act 1919*), and
  - (b) the *Real Property Regulation 2003*, and
  - (c) any regulation replacing either of those Regulations.
- (2) The provisions of this Regulation prevail in the event of any inconsistency between those provisions and the provisions referred to in subclause (1).

**Note.** This Regulation includes provisions concerning plans for land the subject of a strata scheme. All such land is under the provisions of the *Real Property Act 1900*. That Act, and the regulations under that Act, include provisions concerning the preparation and lodgment of dealings for such land (including provisions requiring the payment of fees).

Clause 5	Strata Schemes (Leasehold Development) Regulation 2007
Part 2	Location plans, schedules of unit entitlement and floor plans

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## **Part 2 Location plans, schedules of unit entitlement and floor plans**

### **5 Location plans: sections 7, 10 and 11**

- (1) A location plan must be in the approved form known as “Strata Plan Form 2” and show the following:
- (a) the external boundaries, and the lengths of the external boundaries, of the parcel,
  - (b) except as provided by subclause (2), the projection onto a horizontal plane of the external limits of:
    - (i) the building,
    - (ii) any other structural feature used in the plan to define boundaries of lots or parts of lots,
    - (iii) any lots or parts of lots not within the building,
  - (c) if:
    - (i) any part of the building, or
    - (ii) in the case of a lot that is not within the building but is defined by linear measurement from a part of the building or from a part of some other structural feature, any part of that lot,  
is within 2 metres of a boundary of the parcel, the perpendicular distances from that part of the building, or from that part of the structural feature, to that boundary of the parcel (being perpendicular distances that correspond to the connections referred to in clause 7 (1) (b) or (c)),
  - (d) the identity of:
    - (i) the building, by reference to the street number, the material of its external construction and the number of floors or levels, and
    - (ii) any other structural feature used in the plan to define lots or parts of lots, by reference to its nature and the material of its construction,
  - (e) the identities of all adjoining lands,
  - (f) if any encroachment exists, such survey information as the Registrar-General may require to indicate the relationship of the encroachment to the parcel boundary.
- (2) In the case of a proposed stratum parcel, the matter to be shown on a location plan by means of the projection referred to in subclause (1) (b) is to include the following information instead of that required by subclause (1) (b):

Strata Schemes (Leasehold Development) Regulation 2007

Clause 6

Location plans, schedules of unit entitlement and floor plans

Part 2

- (a) the perimeter of the site of the building of which the proposed stratum parcel forms part,
  - (b) in relation to that perimeter, the external limits of:
    - (i) the building, and
    - (ii) the proposed stratum parcel,
  - (c) in relation to the boundaries of the proposed stratum parcel, such elevations, sections, levels and planes as in the Registrar-General's opinion are necessary to illustrate:
    - (i) the part of the building that will be the subject of the proposed stratum parcel, and
    - (ii) any other structural feature used in the plan to define boundaries of lots or parts of lots, and
    - (iii) any proposed lots or parts of lots not within the building.
- (3) All linear connections shown on a location plan must be referred to a stated surface of a floor, wall, ceiling or structural feature.
- (4) A location plan must comply with the requirements set out in Schedule 1 (in the case of a plan lodged by hand) or 2 (in the case of a plan lodged electronically).

#### **6 Schedules of unit entitlement: sections 7, 13 and 14**

- (1) The schedule of unit entitlement must be set out on the administration sheet in the panel provided.
- (2) A schedule of unit entitlement (other than a schedule of unit entitlement referred to in section 10 of the Act) must set out:
  - (a) in vertical columns in numerical sequence, a reference to the number of each lot in the strata scheme, and
  - (b) opposite each lot number, in whole numbers (excluding zero), the proposed unit entitlement of that lot, and
  - (c) the proposed aggregate unit entitlement as the numerical total of the proposed unit entitlement of all lots in the strata scheme.
- (3) Despite subclause (2) (a), the references to successively numbered lots having the same unit entitlement may be grouped in abbreviated form instead of being set out in vertical columns.

#### **7 Floor plans: sections 7, 10 and 11**

- (1) A floor plan must be in the approved form known as "Strata Plan Form 2", on a separate sheet from the location plan, and show the following:
  - (a) by continuous lines, the boundaries of lots or whole separate parts of lots, so that boundaries defined by walls or other structural

Clause 7	Strata Schemes (Leasehold Development) Regulation 2007
Part 2	Location plans, schedules of unit entitlement and floor plans

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- features are shown by a consistent thick line and boundaries defined by lines only are shown by a consistent thin line,
- (b) if the boundary of a lot is defined by reference to the surface of a structural feature, other than the surface of a floor or ceiling, linear connections to that surface and such linear dimensions of that boundary as the Registrar-General may require,
  - (c) if the boundary of a lot is defined by reference to the surface of a floor or ceiling, such vertical connections and notations as are necessary to define that boundary,
  - (d) notations sufficient to ensure that each cubic space forming the whole of a lot or a whole separate part of a lot is fully defined (provided that if it is intended that a lot boundary is to be defined in accordance with the formula set out in section 4 (2) (a) of the Act, no notation need be made for the purpose of defining that boundary).
- (2) All linear connections shown on a floor plan must be referred to a stated surface of a floor, wall, ceiling or structural feature.
  - (3) No reference is to be made in a floor plan to the relationship of boundaries of lots to boundaries of the parcel, except to the extent required by subclause (4).
  - (4) For the purposes of sections 5 (4) (a) and 17 (4) (a) of the Act, so much of an encroachment as is intended for use with a proposed lot is to be indicated in a floor plan in such manner as the Registrar-General may require.
  - (5) Subclauses (3) and (4) do not apply to a floor plan for a stratum parcel.
  - (6) A floor plan must be shown from the lowest level to the highest level, unless prior approval has been given to showing the levels in another manner by the Registrar-General.
  - (7) A floor plan must show or refer to all occupations within an external part of a lot and within 1 metre of the boundary of that lot and identify the occupations (other than any occupation that is a dividing fence within the meaning of the *Dividing Fences Act 1991* and that is made of timber, pre-painted steel, wire or similar materials but is not made of masonry) as either common property or part of the lot.
  - (8) A floor plan must comply with the requirements set out in Schedule 1 (in the case of a plan lodged by hand) or 2 (in the case of a plan lodged electronically).

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Clause 8

Strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans

Part 3

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### **Part 3 Strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans**

#### **8 Strata plans: section 7**

- (1) The administration sheet of a strata plan:
  - (a) must bear so much of the information and certification referred to in the approved form as is relevant to the plan, and
  - (b) must be signed by a duly authorised officer of the local council or by the accredited certifier (as appropriate) and by the surveyor by whom the plan has been prepared.
- (2) Each lot must be numbered consecutively, beginning with lot 1 and ending with a lot number corresponding with the total number of lots in the plan. If a numbered lot is shown as consisting of more than one part, each part must be described as part of that numbered lot.

**Note.** Section 7 of the Act provides that a strata plan must include a location plan, a floor plan, a schedule of unit entitlement, the by-laws being adopted for the scheme, the name of the body corporate and the address at which documents may be served on the body corporate.

#### **9 Strata plans of subdivision: sections 10 and 11**

- (1) A strata plan of subdivision must be in the approved form.
- (2) The administration sheet of the plan:
  - (a) must bear so much of the information and certification referred to in the approved form as is relevant to the plan, and
  - (b) must be signed by a duly authorised officer of the local council or by the accredited certifier (as appropriate) and by the surveyor by whom the plan has been prepared.
- (3) Each lot resulting from the subdivision must be numbered consecutively, the lowest lot number being greater by one than the highest number of any existing lot in the strata scheme. If a numbered lot is shown as consisting of more than one part, each part must be described as part of that numbered lot.

#### **10 Strata plans of consolidation: section 15**

- (1) A strata plan of consolidation must be in the approved form and must include a floor plan.
- (2) The administration sheet of the plan:
  - (a) must bear so much of the information and certification referred to in the approved form as is relevant to the plan, and

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Part 3 Strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans

(b) must be signed by the surveyor by whom the plan has been prepared.

- (3) Each lot resulting from the consolidation must be numbered consecutively, the lowest lot number being greater by one than the highest number of any existing lot in the strata scheme. If a numbered lot is shown as consisting of more than one part, each part must be described as part of that numbered lot.

#### **11 Building alteration plans: section 17**

- (1) A building alteration plan must be in the approved form and must include a floor plan and, if the Registrar-General so requires, a plan in the nature of a location plan.
- (2) The administration sheet of the plan:
- (a) must bear so much of the information and certification referred to in the approved form as is relevant to the plan, and
- (b) must be signed by the surveyor by whom the plan has been prepared.
- (3) The Registrar-General may permit specified survey information of an encroachment, sufficient to define the perimeter of a parcel, to be shown on a location plan.
- (4) Each lot must be numbered and identified in accordance with its existing numbering and identity in the strata scheme.
- (5) A certificate given by a surveyor under section 17 (1) (d) of the Act must be in the approved form.

#### **12 Alteration of plans lodged by hand**

- (1) The Registrar-General may at his or her discretion and after giving notice to such persons as he or she may think fit:
- (a) number or re-number any lots in a plan lodged by hand, whether before or after registration, and
- (b) before registration of a plan lodged by hand, supply omissions and correct obvious errors in the plan.
- (2) If an alteration to a plan lodged by hand is to be made before registration of the plan and the alteration is not made by the Registrar-General under subclause (1), the alteration must be authenticated by the plan or original administration sheet being signed and dated:
- (a) by the surveyor by whom the plan has been prepared, and
- (b) if the alteration concerns the definition of a lot boundary or affects the proportional unit entitlement of any lot in the strata

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Strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans

Part 3

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scheme, by a duly authorised officer of the local council or by the accredited certifier (as appropriate), and

- (c) by the registered proprietor, if the Registrar-General so requires.

### **13 Alteration of plans lodged electronically**

- (1) The Registrar-General may, at his or her discretion and after giving notice to such persons as he or she may think fit:
- (a) before or after registration of a plan lodged electronically, direct that any lots in the plan be numbered or renumbered, and
  - (b) before registration of a plan lodged electronically, direct that anything omitted from the plan be added to the plan or that any obvious error in the plan be corrected, and
  - (c) require a replacement plan in a Tagged Image File Format (TIFF) approved by the Registrar-General to be submitted showing alterations in accordance with any directions given under paragraph (a) or (b).
- (2) If the alteration is to be made before registration of the plan and either concerns the definition of a lot boundary or affects the proportional unit entitlement of any lot in the strata scheme:
- (a) the original administration sheet is to be endorsed with a statement identifying the alteration, and
  - (b) the endorsed administration sheet is to be re-signed by a duly authorised officer of the local council or by an accredited certifier (as appropriate), and
  - (c) the alteration must be authenticated by the original administration sheet being signed and dated by the registered proprietor, if the Registrar-General so requires, and
  - (d) a new image of the endorsed and re-signed administration sheet is to be created and lodged with the Registrar-General.

Clause 14            Strata Schemes (Leasehold Development) Regulation 2007

Part 4                Staged development

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## **Part 4    Staged development**

### **14    Strata development contracts**

- (1) The description in a strata development contract referred to in section 43 (2) (c) of the Act must deal separately with each of the following matters in relation to each stage of the development:
  - (a) the types of buildings proposed, the proposed uses of the lots in the buildings, the proposed building style and the proposed height and density of the buildings,
  - (b) any common property amenities that will be provided,
  - (c) the number of lots to be created,
  - (d) details of access and construction zones and accompanying rights over common property and development lots,
  - (e) the manner in which it is proposed to landscape the parcel,
  - (f) building materials and finishes to be used,
  - (g) details of any vertical staging, and of the insurance cover that applies to any such staging,
  - (h) whether the developer's liability for expenses relating to the use or maintenance of the common property is to be determined by unit entitlement or differently and details of how the liability is to be determined, if it is to be determined differently,
  - (i) details of any by-laws, management agreements, covenants, easements or dedications that will be created or entered into.
- (2) The description in a strata development contract referred to in section 43 (2) (d) of the Act must deal separately with each of the following matters in relation to each stage of the development:
  - (a) the types of buildings proposed, proposed uses of the lots in the buildings, the proposed building style and the proposed height and density of the buildings,
  - (b) the maximum number of lots to be created,
  - (c) details of any vertical staging, and of the insurance cover that applies to any such staging,
  - (d) whether the developer's liability for expenses relating to the use or maintenance of the common property is to be determined by unit entitlement or differently and details of how the liability is to be determined, if it is to be determined differently,
  - (e) details of any by-laws, management agreements, covenants, easements or dedications that will be created or entered into.



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Clause 15

Staged development

Part 4

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### 15 Execution by developer on behalf of body corporate

If a dealing, plan or other instrument is executed by a developer on behalf of a body corporate under section 54 (3) of the Act for the purpose of giving effect to a decision about a development concern:

- (a) the execution must be in the approved form, and
- (b) a statutory declaration in the approved form specifying the circumstances in which the instrument was executed must be lodged by hand in conjunction with each dealing, plan or other instrument, whether or not any of those instruments is lodged electronically.

### 16 Notices relating to development concerns

A motion that relates to a development concern must be identified by the matter “(THIS MOTION RELATES TO A DEVELOPMENT CONCERN—SEE SECTIONS 54, 55 AND 56 OF THE STRATA SCHEMES (LEASEHOLD DEVELOPMENT) ACT 1986)” appearing after the proposed wording of the motion in the following notices and requisitions:

- (a) a notice served on the secretary of the council of the body corporate requiring inclusion in the agenda of the next general meeting of the body corporate of such a motion,
- (b) a notice served on the secretary or, in the absence of the secretary, another member of the council of the body corporate requiring the convening of an extraordinary general meeting to consider such a motion,
- (c) a requisition served on the secretary or, in the absence of the secretary, another member of the council of the body corporate requiring a meeting of the council to be convened to consider such a motion,
- (d) notice of a meeting of the body corporate or of the council of the body corporate at which such a motion is to be considered.

### 17 Insurance for vertical staged development

- (1) For the purposes of clause 8 of Schedule 2AA to the Act, a policy of indemnity must indemnify the developer against at least the following:
  - (a) contract works claims up to a value at least equivalent to the cover provided by the body corporate’s damage policy maintained under section 83 or 84 of the *Strata Schemes Management Act 1996*, subject only to such deductibles, exclusions and other terms and conditions as are reasonable and appropriate for contract works insurance,

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Part 4	Staged development

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- (b) public liability claims up to a value of at least \$15,000,000, subject only to such deductibles, exclusions and other terms and conditions as are reasonable and appropriate for public liability insurance.
- (2) This clause does not affect any obligation of a developer to effect and maintain insurance required by or under any other law, such as the *Workers Compensation Act 1987*.
- (3) In this clause:  
***contract works claim*** means a claim for accidental damage to buildings and works for the time being forming part of the parcel (including buildings erected and works carried out under the strata development contract), arising out of or resulting from the carrying out of the permitted development.  
***public liability claim*** means a claim for damages because of death or personal injury for which the developer is liable as an occupier of the parcel.

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Clause 18

Administration sheets

Part 5

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## Part 5 Administration sheets

**Note.** If a plan is lodged by hand but the signatures and consents required are not endorsed on the plan, or a plan is lodged electronically, the signatures and consents required must be endorsed on the separate document required by Division 1 of Part 2 of the Act to be lodged with the plan (the **administration sheet**) and that document must be lodged in the same way as the plan. The administration sheet must accompany all plans and be used for all signatures and seals.

### 18 Content of the administration sheet

- (1) The administration sheet must include the plan heading and the surveyor's reference in the appropriate panels on each sheet of the approved form.
- (2) The administration sheet must contain all certificates required by the Registrar-General, endorsed in the appropriate panels on that document.

### 19 Administration sheet to comply with Schedule 3 or Schedules 3 and 4 requirements

- (1) An administration sheet that is lodged by hand at the office of the Registrar-General must comply with the requirements set out in Schedule 3.
- (2) An administration sheet can be lodged electronically only if:
  - (a) the plan to which it relates is also lodged electronically, and
  - (b) the administration sheet complies with the requirements set out in Schedules 3 and 4.

### 20 Refusal to accept an administration sheet

The Registrar-General may refuse to accept an administration sheet that, in the opinion of the Registrar-General, does not comply with, or is not lodged in accordance with, this Part.

### 21 Registration of an administration sheet

On registration of a plan that is accompanied by an administration sheet, the administration sheet is to be registered in the register of plans referred to in the *Conveyancing (General) Regulation 2003*.

Clause 22            Strata Schemes (Leasehold Development) Regulation 2007

Part 6                Miscellaneous

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## Part 6    Miscellaneous

### 22    Notations relating to easements, profits à prendre, restrictions on the use of land and positive covenants

- (1)    A notation referring to an intention to create or release an easement or profit à prendre, or to create a restriction or positive covenant, must not be entered on a plan unless it is intended that it is to be created or released pursuant to section 88B of the *Conveyancing Act 1919*.
- (2)    However, a plan may designate the site of a proposed easement, profit à prendre, restriction or positive covenant that is intended to be created (otherwise than by registration of the plan) by an instrument of grant or reservation, or the proposed varied site of an existing easement or profit à prendre that is intended to be varied by an instrument of variation, if:
  - (a)    the designation of the site of the proposed easement, profit à prendre, restriction or positive covenant, or of the proposed variation of existing easement or profit à prendre, includes the word “proposed” or an abbreviation of that word, and
  - (b)    no other statement of intention to create or vary the easement or profit à prendre, or to create the restriction or positive covenant, is entered elsewhere on the plan.
- (3)    The designation of the site of a proposed easement, profit à prendre, restriction or positive covenant in accordance with subclause (2) does not, for the purposes of section 88B of the *Conveyancing Act 1919*, indicate in the prescribed manner an intention to create an easement.
- (4)    A notation referring to the proposed varied site of an existing easement or profit à prendre must not be entered on a plan unless it is intended that the easement or profit à prendre is to be varied pursuant to section 47 (5A) of the *Real Property Act 1900*.

### 23    Indication of creation of easement

- (1)    If a plan is intended, on registration, to create an easement, profit à prendre, restriction or positive covenant pursuant to section 88B of the *Conveyancing Act 1919*:
  - (a)    a statement of intention to create the easement, profit à prendre, restriction or positive covenant must be legibly printed in the panel provided on the approved form on the administration sheet, and
  - (b)    the site of any proposed easement must be shown in the plan drawing area of the approved form with sufficient indication of the nature of the easement to distinguish it from any other easement intended to be created on registration of the plan, and

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Clause 24

Miscellaneous

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- (c) if any proposed easement is to be limited in height or depth, the levels of the limits must be defined as required by the Registrar-General.
  - (2) A statement of intention referred to in subclause (1) (a) must neither incorporate the term of the easement, profit à prendre, restriction or positive covenant nor specify the lots intended to be benefited and burdened.
  - (3) The plan must be accompanied by a section 88B instrument in the approved form that complies with Division 4 of Part 3 of, and the requirements set out in Schedule 9 to, the *Conveyancing (General) Regulation 2003* and is lodged in the same manner as the plan. If the instrument is lodged electronically, the requirements set out in Schedule 10 to that regulation must also be complied with.

#### **24 Indication of release of easement**

- (1) If a plan is intended, on registration, to release an easement or profit à prendre (in respect of some or all of the land to which it applies) pursuant to section 88B of the *Conveyancing Act 1919*:
  - (a) a statement of intention to release the easement or profit à prendre must be legibly printed in the panel provided on the approved form on the administration sheet, and
  - (b) sufficient information must be shown on the plan, or included in the relevant section 88B instrument, to indicate the extent of the release.
- (2) The plan must be accompanied by a section 88B instrument in the approved form that complies with Division 4 of Part 3 of, and the requirements set out in Schedule 9 to, the *Conveyancing (General) Regulation 2003* and is lodged in the same manner as the plan. If the instrument is lodged electronically, the requirements set out in Schedule 10 to that regulation must also be complied with.

#### **25 Lodgment of plans by hand**

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

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- (c) completed plan checklists in the approved form, if required by the Registrar-General.

**Note.** Division 1 of Part 2 of the Act requires a plan to be lodged with a separate document in the approved form relating to the plan. Such a document is called an **administration sheet** in this Regulation. Part 5 makes provision for administration sheets.

- (3) If the Registrar-General so requires, a plan must also be accompanied by:
- (a) in the case of a strata plan, the certificate of title or Crown grant for the land comprising the parcel, and
  - (b) in the case of a strata plan of subdivision or a strata plan of consolidation, the certificates of title for the lease of the land comprised in the plan and for the common property comprised in the strata scheme, and
  - (c) in the case of a building alteration plan, the certificate of title for the common property comprised in the strata scheme.
- (4) The Registrar-General will not require a plan to be accompanied by a certificate of title or Crown grant if evidence is furnished to his or her satisfaction that the certificate of title or Crown grant is in his or her custody, and that he or she has authority to use that instrument in connection with registration of the plan, or that notice has been served under section 18 (1) (d) of the Act.
- (5) If an original of a plan bears evidence of a strata certificate:
- (a) the print of each sheet of the plan referred to in subclause (2) (b) must contain particulars of the certificate under the original signature of the duly authorised officer of the council or of the accredited certifier (as appropriate) who gave the certificate, and
  - (b) the administration sheet must be signed by the duly authorised officer of the council or of the accredited certifier (as appropriate) who gave the certificate.

## 26 Lodgment of plans electronically

- (1) An authorised person lodging a plan electronically for registration in the office of the Registrar-General must lodge the plan in accordance with the e-plan system established by section 195AA of the *Conveyancing Act 1919* or otherwise with the consent of the Registrar-General.
- (2) Plan lodgment details must be provided in the manner required by the Registrar-General. The plan must comply with the requirements set out in Schedule 2 and be lodged in accordance with the relevant requirements of that Schedule.

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Clause 27

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- (3) The plan file must be accompanied by files comprising:
- (a) such instruments and data files as the Registrar-General may require, and
  - (b) completed plan checklists in the approved form, if required by the Registrar-General.
- Note.** Division 1 of Part 2 of the Act requires a plan to be lodged with a separate document in the approved form relating to the plan. Such a document is called an **administration sheet** in this Regulation. Part 5 makes provision for administration sheets.
- (4) The Registrar-General may permit a plan to be accompanied by:
- (a) approved forms, and
  - (b) the consents referred to in subclause (5) (d).
- (5) The following original documents must be lodged by hand at the office of the Registrar-General, and may not be lodged electronically:
- (a) in the case of a strata plan, the certificate of title or Crown grant for the land comprising the parcel,
  - (b) in the case of a strata plan of subdivision or a strata plan of consolidation, the certificates of title for the lease of the land comprised in the plan and for the common property comprised in the strata scheme,
  - (c) in the case of a building alteration plan, the certificate of title for the common property comprised in the strata scheme,
  - (d) such consents in writing to the registration of the plan signed by a lessee, caveator, judgment creditor or other person, as may be required by the Registrar-General,
  - (e) such other certificates of title, office copies of court orders, powers of attorney, statutory declarations and other original documents as may be required by the Registrar-General.
- (6) The Registrar-General will not require a certificate of title or Crown grant to be lodged if evidence is furnished to his or her satisfaction that the certificate of title or Crown grant is in his or her custody, and that he or she has authority to use that instrument in connection with registration of the plan, or that notice has been served under section 18 (1) (d) of the Act.

#### 27 Lodgment of other documents electronically

Where a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan that the Registrar-General permits to be lodged electronically is accompanied by other documents, those documents must also be lodged electronically and comply with

Clause 28 Strata Schemes (Leasehold Development) Regulation 2007

Part 6 Miscellaneous

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the requirements set out in Schedule 5, except those documents referred to in clause 26 (5).

## **28 Lessees' certificates**

For the purposes of section 7 (1) (c) (iii) of the Act, the prescribed persons by whom a certificate referred to in that subparagraph must be signed are:

- (a) if the total number of leases is 3 or fewer, all of the lessees, or
- (b) if the total number of leases is more than 3:
  - (i) the person presiding at the meeting referred to in section 7 (1) (c) (iii) of the Act, and
  - (ii) two other lessees (not being joint lessees).

## **29 Councils' strata certificates and notices**

- (1) A strata certificate issued or notice given by a local council under section 66 (1), (2), (3), (4), (5) or (6) of the Act must be in the approved form.
- (2) A notice under section 66 (3) of the Act must be accompanied by a copy of a plan illustrating the proposed subdivision, identified by the signature of the duly authorised officer of the council who signed the notice.
- (3) A local council must keep (as part of the register kept by the council under clause 264 or 265 of the *Environmental Planning and Assessment Regulation 2000*) a record of the following:
  - (a) the date of issue of each strata certificate issued by the council under section 66 of the Act,
  - (b) the date of issue of each strata certificate issued by an accredited certifier under section 66A of the Act in relation to a building or proposed building within the area of the council.
- (4) A local council must keep the following documents for each strata certificate issued by it under section 66 of the Act, or by an accredited certifier under section 66A of the Act, in relation to a building or proposed building within the area of the council:
  - (a) a copy of the strata certificate,
  - (b) a copy of the proposed strata plan, strata plan of subdivision or notice of conversion to which the strata certificate relates,
  - (c) copies of any related documents submitted to the council by the applicant for the strata certificate in connection with the application.



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- (5) A local council must make the documents kept by it under subclause (4) available for inspection at its principal office, free of charge, during the council's ordinary office hours. A copy of any such document may be made on payment of a reasonable copying charge set by the council.

### **30 Accredited certifier certificates**

- (1) A strata certificate issued by an accredited certifier under section 66A of the Act must be in the approved form.
- (2) An accredited certifier must within 7 days after issuing a strata certificate send a copy of the following documents to the consent authority that granted the relevant development consent and to the local council (if the local council is not the consent authority):
- (a) the strata certificate,
  - (b) the proposed strata plan, strata plan of subdivision or notice of conversion concerned,
  - (c) any other related documents submitted to the accredited certifier by the applicant for the strata certificate in connection with the application.
- (3) Clause 8 (Record keeping by accredited certifiers) of the *Building Professionals Regulation 2007* applies (as a requirement of this Regulation) in respect of strata certificates and applications for strata certificates in the same way as it applies in respect of certificates and applications for certificates referred to in that clause.

### **31 Body corporate certificates**

- (1) A certificate given by a body corporate under section 11 (2) (d) (i), 14 (b), 16 (2) (b) (i), 22 (5) (b), 32 (4) or 66 (3), (5) (a) or (6) (a) of the Act must be in the approved form.
- (2) For the purpose of identification, a plan in respect of which a certificate is given under section 66 (3) of the Act must be signed by each person who attested the affixing of the seal of the body corporate to the certificate.

### **32 Notice to water supply authorities**

- (1) A lessor must give written notice to the relevant water supply authority within 60 days after the lessor grants or terminates a lease, or allows or terminates occupation, of a lot in a leasehold strata scheme.
- Maximum penalty: 2 penalty units.

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(2) In this clause:

***water supply authority*** means:

- (a) the Sydney Water Corporation, the Hunter Water Corporation or a water supply authority constituted under the *Water Management Act 2000*, or
- (b) a council or county council exercising water supply, sewerage or stormwater drainage functions under Division 2 of Part 3 of Chapter 6 of the *Local Government Act 1993*.

**33 Category 1 fire safety provisions: section 66**

For the purposes of section 66 of the Act, the following provisions of the *Building Code of Australia* are prescribed as ***Category 1 fire safety provisions***, namely, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.

**34 Periods for retention of documents: section 78**

For the purposes of section 78 (2) (c) of the Act, the period prescribed is the period of 12 months commencing with the day on which the plan or other document was registered or recorded.

**35 Fees**

- (1) The fees specified opposite the matters listed in Schedule 6 are payable to the Registrar-General in respect of those matters.
- (2) A fee is payable before the service to which the fee relates is provided or at such time, and in accordance with such conditions, as the Registrar-General may agree with the person paying the fee.

**36 Savings**

Any act, matter or thing that, immediately before the repeal of the *Strata Schemes (Leasehold Development) Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.

Strata Schemes (Leasehold Development) Regulation 2007

Requirements for plans lodged by hand

Schedule 1

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## Schedule 1 Requirements for plans lodged by hand

(Clauses 5 and 7)

### 1 Material on which plan to be drawn

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

### 2 Plan sheet drawing dimensions

Each plan sheet must have external dimensions of 420 millimetres by 297 millimetres (standard A3 size).

### 3 Margins

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

### 4 Lettering

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

### 5 Use of colouring and edging prohibited

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

## Strata Schemes (Leasehold Development) Regulation 2007

## Schedule 1 Requirements for plans lodged by hand

**6 Clarity of detail**

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

**7 Alterations**

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

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

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 5 sheets must be numbered "Sheet 1 of 5 sheets" and "Sheet 2 of 5 sheets", respectively).
- (2) Each sheet of a location plan or floor plan must contain a north point (directed upwards).
- (3) No information (other than the plan and any separate diagrams and tabulations of dimensions relating to the plan) is to appear within the plan drawing area of a plan sheet.

**9 Linear dimensions**

- (1) Linear measurements must be expressed in metres without any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

**10 Area dimensions**

- (1) Area measurements must be expressed as follows:
  - (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol "ha",
  - (c) areas of 10,000 hectares or more must be expressed in square kilometres, accompanied by the symbol "km<sup>2</sup>".

## Strata Schemes (Leasehold Development) Regulation 2007

## Requirements for plans lodged by hand

## Schedule 1

- 
- (2) A statement may be added to the plan stating that all areas are approximate.
  - (3) The total area of a lot:
    - (a) must be shown within or relevant to the most significant part of the lot, and
    - (b) must be the exact mathematical total of the areas shown elsewhere in the plan within or relevant to the component parts of that lot.

**11 Bearings and angles**

- (1) Bearings must not be shown on any plan sheet unless they form part of permitted survey information.
- (2) Angular relationships must be established by linear dimensions and rectangular offsets only, and not by use of angular dimensions, except in the case of an angular dimension of 90°, which may be shown as such on a floor plan.

**12 Reduction ratio**

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

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

- (1) A location plan must contain sufficient information to define the site of:
  - (a) any easement, profit à prendre, restriction or positive covenant that is intended to be created as a consequence of the registration of the plan and that affects common property not within a building, and
  - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction or positive covenant, or proposed variation or partial release of an easement or profit à prendre, that affects common property not within a building,and, where necessary, contain sufficient information to indicate the relationship of any such easement, profit à prendre, restriction or positive covenant to the boundaries of any affected parcel or lot.
- (2) A floor plan must contain sufficient information to define the site of:
  - (a) any easement, profit à prendre, restriction or positive covenant intended to be created as a consequence of the registration of the

## Strata Schemes (Leasehold Development) Regulation 2007

## Schedule 1 Requirements for plans lodged by hand

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plan that affects a lot in the plan or common property within a building, and

- (b) any proposed easement over a lot in the plan or common property within a building.
- (3) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object which is underground or is within or beneath an existing building, it is sufficient to indicate on the location plan or floor plan (as the case may be) the approximate position of the easement.

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

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

**15 Signatures not to appear**

The plan drawing sheets are not to show any signatures or seals.

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

Strata Schemes (Leasehold Development) Regulation 2007

Requirements for plans lodged electronically

Schedule 2

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## Schedule 2 Requirements for plans lodged electronically

(Clauses 5, 7 and 26)

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

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

### 2 Plan sheet drawing dimensions

Each plan sheet must have external dimensions of 420 millimetres in width by 297 millimetres in length (standard A3 size).

### 3 Margins

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

### 4 Lettering

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

## Strata Schemes (Leasehold Development) Regulation 2007

## Schedule 2 Requirements for plans lodged electronically

**5 Use of colouring and edging prohibited**

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

**6 Clarity of detail**

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

**7 Alterations**

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

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

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 5 sheets must be numbered "Sheet 1 of 5 sheets" and "Sheet 2 of 5 sheets", respectively).
- (2) Each sheet of a location plan or floor plan must contain a north point (directed upwards).
- (3) No information (other than the plan and any separate diagrams and tabulations of dimensions relating to the plan) is to appear within the plan drawing area of a plan sheet.

**9 Linear dimensions**

- (1) Linear measurements must be expressed in metres, without rounding or any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

**10 Area dimensions**

- (1) Area measurements must be expressed as follows:
  - (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m<sup>2</sup>",
  - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol "ha",



## Strata Schemes (Leasehold Development) Regulation 2007

## Requirements for plans lodged electronically

## Schedule 2

- 
- (c) areas of 10,000 hectares or more must be expressed in square kilometres, accompanied by the symbol “km<sup>2</sup>”.
  - (2) A statement may be added to the plan stating that all areas are approximate.
  - (3) The total area of a lot:
    - (a) must be shown within or relevant to the most significant part of the lot, and
    - (b) must be the exact mathematical total of the areas shown elsewhere in the plan within or relevant to the component parts of that lot.

**11 Bearings and angles**

- (1) Bearings must not be shown on any plan sheet unless they form part of permitted survey information.
- (2) Angular relationships must be established by linear dimensions and rectangular offsets only, and not by use of angular dimensions, except in the case of an angular dimension of 90°, which may be shown as such on a floor plan.

**12 Reduction ratio**

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

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

- (1) A location plan must contain sufficient information to define the site of:
  - (a) any easement, profit à prendre, restriction or positive covenant that is intended to be created as a consequence of the registration of the plan and that affects common property not within a building, and
  - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
  - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction or positive covenant, or proposed variation or partial release of an easement or profit à prendre, that affects common property not within a building,

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

## Strata Schemes (Leasehold Development) Regulation 2007

## Schedule 2 Requirements for plans lodged electronically

- 
- (2) A floor plan must contain sufficient information to define the site of:
    - (a) any easement, profit à prendre, restriction or positive covenant intended to be created as a consequence of the registration of the plan that affects a lot in the plan or common property within a building, and
    - (b) any proposed easement over a lot in the plan or common property within a building.
  - (3) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object which is underground or is within or beneath an existing building, it is sufficient to indicate on the location plan or floor plan (as the case may be) the approximate position of the easement.

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

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

**15 Signatures not to appear**

The plan drawing sheets are not to show any signatures or seals.

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

Strata Schemes (Leasehold Development) Regulation 2007

Requirements for administration sheet

Schedule 3

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## Schedule 3 Requirements for administration sheet

(Clause 19)

**Note.** An administration sheet must be in the approved form (see Division 1 of Part 2 of the Act.) When an administration sheet is adopted, all signatures and seals must be shown on the sheet. No signatures or seals are to appear on the plan drawing sheets. The completed administration sheet forms part of the plan and must be lodged with and in the same manner as the plan.

### 1 Use of approved form

Any signatures, seals or certificates that cannot satisfactorily be shown on one sheet may be shown on one or more additional sheets in the approved form. The total number of additional sheets must not be more than 5 unless the Registrar-General otherwise approves.

### 2 Paper

The paper used must be:

- (a) white and free from discolouration and blemishes, and
- (b) archival quality paper, and
- (c) 297 millimetres in length by 210 millimetres in width (standard A4), or such other paper as may be approved by the Registrar-General.

### 3 Margins

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

### 4 Lettering

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

## Strata Schemes (Leasehold Development) Regulation 2007

Schedule 3 Requirements for administration sheet

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**5 Alterations**

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

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

If the administration sheet comprises more than one sheet:

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

Strata Schemes (Leasehold Development) Regulation 2007

Requirements for lodging administration sheet electronically

Schedule 4

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## Schedule 4 Requirements for lodging administration sheet electronically

(Clause 19 (2) (b))

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

- (1) Each sheet of the completed paper administration sheet complying with Schedule 3 that bears original signatures and seals is to be scanned by the lodging party and an image created in a Tagged Image File Format (TIFF) approved by the Registrar-General.
- (2) Each image must be created to the following specifications:
  - (a) **Size**—true to the approved form size (standard A4),
  - (b) **Colour**—must be black and white (monochrome),
  - (c) **Resolution**—200 dots per inch (dpi),
  - (d) **Compression**—CCITT Group 4.

### 2 Multiple sheets

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

### 3 Lodging procedure

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

**Note.** The completed paper administration sheet, bearing original signatures and seals, must be retained by the lodging party for a period of at least 12 months following the date of registration of the plan because the lodging party may be required, under section 78 of the Act, to produce that sheet to the Registrar-General within that period.

Strata Schemes (Leasehold Development) Regulation 2007

Schedule 5 Requirements for lodging other documents electronically

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## Schedule 5 Requirements for lodging other documents electronically

(Clause 27)

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

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

### 2 Multiple sheets

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

### 3 Lodging procedure

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

**Note.** The completed paper document, bearing original signatures and seals, must be retained by the lodging party for a period of at least 12 months following the date of registration of the plan because the lodging party may be required, under section 78 of the Act, to produce that document to the Registrar-General within that period.

## Strata Schemes (Leasehold Development) Regulation 2007

Fees

Schedule 6

**Schedule 6 Fees**

(Clause 35)

	\$
1 On lodgment of a plan for registration:	
(a) comprising no more than 2 lots	1000.00
(b) comprising more than 2 lots	1200.00
In addition, for each quarter-hour or part of a quarter-hour in excess of:	
(a) the first 4 hours occupied in the examination of the plan referred to in paragraph (a) above	50.00
(b) the first 6 hours occupied in the examination of the plan referred to in paragraph (b) above	50.00
In addition, for the preparation and supply of a certificate of title for lease of common property in a leasehold strata scheme	120.00
In addition, for each lot shown on the plan	120.00
And, if the plan is accompanied by a copy of the proposed by-laws for the leasehold strata scheme, an additional	180.00
And, if the plan is accompanied by a section 88B instrument, for each easement, restriction on the use of land, positive covenant or profit à prendre to be created, irrespective of the number of lots burdened or benefited, an additional	90.00
And, if the plan is accompanied by a section 88B instrument, for each easement to be released, irrespective of the number of lots burdened or benefited, an additional	90.00
And, if the plan is lodged for registration as a strata plan of consolidation—for each folio of the Register to be consolidated, an additional	16.50
2 On lodgment of a substituted plan or any sheet of such a plan	90.00
3 On lodgment of a section 88B instrument in substitution for another such instrument or part of such instrument	Such fee as would be appropriate to the instrument as an original lodgment fee

## Strata Schemes (Leasehold Development) Regulation 2007

## Schedule 6 Fees

	\$	
4	On lodgment of an application to amend a plan	90.00
	In addition, if the application involves the amendment of a certificate of title or folio of the Register:	
	(a) for the first certificate or folio	90.00
	(b) for each certificate or folio after the first	12.50
5	For examining a plan before lodgment:	
	(a) comprising no more than 2 lots	1100.00
	(b) comprising more than 2 lots	1320.00
	In addition, for each quarter-hour or part of a quarter-hour in excess of:	
	(a) the first 4 hours occupied in the examination of the plan referred to in paragraph (a) above	55.00
	(b) the first 6 hours occupied in the examination of the plan referred to in paragraph (b) above	55.00
6	On lodgment of a notification of change of by-laws	90.00
7	On lodgment of a notice of conversion	90.00
8	On lodgment of a notification of change of address for service of notices on an owners corporation	90.00
9	On lodgment of an order varying a leasehold strata scheme	90.00
10	On lodgment of an application for an order terminating a leasehold strata scheme	90.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in examining the application	50.00
11	On lodgment of an order terminating a leasehold strata scheme	90.00
12	On lodgment of a certificate that the initial period has expired, given by an owners corporation pursuant to section 11 (2) (d) (i), 16 (2) (b) (i) or 32 (4) (b) of the Act	90.00
13	On lodgment of a strata management statement	300.00
14	On lodgment for registration of a strata development contract	200.00
15	On lodgment for registration of an amendment to a strata development contract	90.00



## Strata Schemes (Leasehold Development) Regulation 2007

Fees

Schedule 6

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		\$
16	For supplying a copy of a document or part of a document (other than a certified copy) in the custody of the Registrar-General:	
(a)	to any person attending an office of the Department of Lands	12.50
(b)	by electronic means to any agent licensed by the Department of Lands	6.20
(c)	to any person by some other means	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in providing the service
17	On lodgment of any document not otherwise referred to in this Schedule	90.00

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New South Wales

# Sydney Olympic Park Authority Regulation 2007

under the

Sydney Olympic Park Authority Act 2001

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Sydney Olympic Park Authority Act 2001*.

FRANK SARTOR, M.P.,  
Minister for Planning

## Explanatory note

The object of this Regulation is to remake, with only minor changes in substance, the *Sydney Olympic Park Regulation 2001*, which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision for or with respect to the following:

- (a) the regulation of activities at Sydney Olympic Park generally,
- (b) the regulation of activities at the sportsgrounds within Sydney Olympic Park (such as the Telstra Stadium and the Sydney Olympic Park Aquatic Centre),
- (c) functions of a local government council (additional to those specified in the *Sydney Olympic Park Authority Act 2001*) that the Sydney Olympic Park Authority may exercise in relation to Sydney Olympic Park,
- (d) the issue of penalty notices for certain offences against the Regulation,
- (e) miscellaneous and formal matters.

This Regulation is made under the *Sydney Olympic Park Authority Act 2001*, including sections 19 (Authority's functions as a local government council), 79 (Penalty notices) and 82 (the general regulation-making power).

## Sydney Olympic Park Authority Regulation 2007

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## Sydney Olympic Park Authority Regulation 2007

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Clause 1	Sydney Olympic Park Authority Regulation 2007
Part 1	Preliminary

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## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Sydney Olympic Park Authority Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Sydney Olympic Park Regulation 2001* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**liquor** has the same meaning as in the *Liquor Act 1982*.

**public domain** means that part of Sydney Olympic Park that is not the site of a sportsground.

**sell** includes the following:

- (a) sell by wholesale, retail, auction or tender,
- (b) hire,
- (c) barter or exchange,
- (d) supply for profit,
- (e) offer for sale or hire, receive for sale or hire, have in possession for sale or hire or expose or exhibit for sale or hire,
- (f) conduct negotiations for sale or hire,
- (g) consign or deliver for sale or hire,
- (h) solicit for sale or hire,
- (i) cause or permit anything referred to above.

**sign** includes a board, post, banner, notice or painted marking.

**sportsground** means any one or more of the following:

- (a) Telstra Stadium,
- (b) Sydney Showground,
- (c) Sydney SuperDome,
- (d) Sydney Olympic Park Aquatic Centre,
- (e) Sydney Olympic Park Athletic Centre,
- (f) Sydney Olympic Park Golf Centre,
- (g) Sydney Olympic Park Hockey Centre,
- (h) Sydney Olympic Park Sports Centre,

Clause 3	Sydney Olympic Park Authority Regulation 2007
Part 1	Preliminary

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- (i) Sydney Olympic Park Sports Halls,
- (j) Sydney International Archery Centre,
- (k) Sydney International Tennis Centre.

**the Act** means the *Sydney Olympic Park Authority Act 2001*.

**vehicle** includes any of the following:

- (a) a motor vehicle,
- (b) a trailer or caravan, whether or not it is in the course of being towed,
- (c) an apparatus that is propelled by human, animal or mechanical power, or by the wind, and is wholly or partly used for the conveyance of persons or things, other than a wheelchair, pram or stroller,
- (d) a boat, raft, canoe, ski, barge or other vessel.

**Note. Penalty unit** is defined in section 17 of the *Crimes (Sentencing Procedure) Act 1999* which provides that a reference in any Act or statutory rule to a number of penalty units is to be read as a reference to an amount of money equal to the amount obtained by multiplying a specified monetary value by that number of penalty units. On the commencement of this Regulation, the monetary value of a penalty unit was \$110.

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

Clause 4	Sydney Olympic Park Authority Regulation 2007
Part 2	Regulation of activities—generally

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## **Part 2 Regulation of activities—generally**

### **4 Commercial and other activities**

A person must not do any of the following at Sydney Olympic Park, except as authorised by the Authority:

- (a) sell any article,
- (b) provide, or offer to provide, any services for fee, gain or reward,
- (c) supply or attempt to supply (including by selling or attempting to sell) a ticket for admission to a sportsground,
- (d) use any audio, loudspeaker or broadcasting equipment or camera (whether photographic, cinematic or video) for a commercial purpose,
- (e) distribute any advertising matter or display any advertisement (other than on a vehicle driven or operated by the person or on any clothing worn by the person),
- (f) damage, destroy or remove any tree, plant or other vegetation,
- (g) damage, destroy or remove any building, structure or equipment,
- (h) leave any rubbish or litter, except in a receptacle provided for the purpose,
- (i) distribute a brochure, leaflet or handbill,
- (j) conduct a wedding,
- (k) collect or attempt to collect money,
- (l) busk,
- (m) conduct, or participate in, any game or other activity in a manner that unduly interferes with the amenity of the area,
- (n) operate or use any radio, television, record-player, tape recorder, compact disc player, musical instrument or other sound-generating device in a manner that unduly interferes with the amenity of the area,
- (o) camp or use facilities for sleeping overnight,
- (p) erect a tent or other temporary structure,
- (q) paint, erect or affix any decoration, sign or other equipment,
- (r) climb any tree, sculpture, decoration, flagpole or other fixture,
- (s) bathe, wade, wash or swim, or operate a boat, kayak or any other water craft or vessel or flotation device, in any lake, pond or stream or in any ornamental water,
- (t) light any fire, barbecue or stove (not being a cooking facility provided for the purpose by the Authority),

Clause 4 Sydney Olympic Park Authority Regulation 2007

Part 2 Regulation of activities—generally

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- (u) set off any firework,
  - (v) carry or discharge or have in the person's possession any firearm (within the meaning of the *Firearms Act 1996*) or prohibited weapon (within the meaning of the *Weapons Prohibition Act 1998*), unless:
    - (i) the person is a police officer of the State or the Commonwealth, or
    - (ii) the person is the holder of a licence under the *Security Industry Act 1997*, is carrying out functions authorised by the licence, and is the holder of the relevant licence or permit under the *Firearms Act 1996* or the *Weapons Prohibition Act 1998* (as the case requires),
  - (w) operate a motorised model aircraft, boat, car or similar thing,
  - (x) play or practise golf,
  - (y) land or launch any aircraft, helicopter, parachute, hang-glider or hot air or gas-filled balloon, or any similar thing,
  - (z) ride or use any skate board, roller skates, in-line skates, or recreational equipment, whether motorised or not, or similar equipment (other than a bicycle),
  - (aa) ride or push a bicycle otherwise than on a cycleway or other path designated for that purpose,
  - (ab) bring a horse into the park, or lead or ride a horse, or leave a horse unattended or untethered,
  - (ac) bring a dog into, or have a dog within, the park unless it is on a leash,
  - (ad) abandon an animal,
  - (ae) destroy, capture, injure or annoy an animal,
  - (af) be in possession of a trap or device for the hunting or capturing of animals,
  - (ag) destroy or interfere with the habitat of an animal,
  - (ah) dig up or disturb the surface of any road or other land,
  - (ai) deposit waste,
  - (aj) allow a vehicle to leak, onto a sealed surface in the park, an amount of oil in excess of what a properly-maintained vehicle of that kind could reasonably be expected to leak,
  - (ak) moor a vessel (otherwise than by securing the vessel to a wharf of the Authority) or tie a vessel to any vegetation.
- Maximum penalty: 20 penalty units.



Clause 5	Sydney Olympic Park Authority Regulation 2007
Part 2	Regulation of activities—generally

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## 5 Other controls

- (1) The Authority may do any one or more of the following:
  - (a) limit the number of persons who may enter Sydney Olympic Park or any part of Sydney Olympic Park,
  - (b) prohibit categories of persons from entering, or limit categories of person who may enter, or limit the number of persons within categories of persons who may enter, Sydney Olympic Park or any part of Sydney Olympic Park,
  - (c) close Sydney Olympic Park or any part of Sydney Olympic Park to the public,
  - (d) charge admission to Sydney Olympic Park or any part of Sydney Olympic Park,
  - (e) prohibit persons from entering Sydney Olympic Park or any part of Sydney Olympic Park:
    - (i) if they are in possession of any specified thing, or
    - (ii) if, in the opinion of a person authorised by the Authority, they are or appear to be intoxicated.
- (2) The Authority may do any one or more of the following:
  - (a) prohibit the entry of vehicles to Sydney Olympic Park or any part of Sydney Olympic Park,
  - (b) regulate or otherwise control the entry of vehicles to Sydney Olympic Park or any part of Sydney Olympic Park,
  - (c) refuse to admit a vehicle to Sydney Olympic Park or any part of Sydney Olympic Park.
- (3) The Authority may take any action referred to in subclause (1) or (2) by means of the erection of a sign or the giving of a direction to the person concerned.
- (4) A person must not do anything in wilful contravention of a sign erected or a direction given under this clause.  
Maximum penalty: 20 penalty units.
- (5) Nothing in this clause limits any other function of the Authority under this Regulation.

## 6 Bringing of liquor into Sydney Olympic Park

- (1) A person must not bring or attempt to bring liquor into Sydney Olympic Park or any part of Sydney Olympic Park specified by the Authority without the approval of the Authority.  
Maximum penalty: 10 penalty units.

Clause 7	Sydney Olympic Park Authority Regulation 2007
Part 2	Regulation of activities—generally

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- (2) As an alternative to being refused entry to the Sydney Olympic Park or any part of Sydney Olympic Park, or being removed from Sydney Olympic Park or any part of Sydney Olympic Park, for a contravention of this clause, a person may be required to dispose of the liquor concerned in a manner approved by the Authority or to surrender the liquor to the Authority for disposal.
- (3) This clause does not apply to a person who holds a licence under the *Liquor Act 1982* that allows the person to sell liquor on a part of Sydney Olympic Park set aside for that purpose.

#### **7 Sale or supply of liquor to minors**

A person must not sell or supply liquor within Sydney Olympic Park to any person under the age of 18 years.  
Maximum penalty: 10 penalty units.

#### **8 Prohibition on liquor**

- (1) The Authority may prohibit the drinking of liquor in Sydney Olympic Park or any part of Sydney Olympic Park (either at any time or at any particular time). The Authority is to give public notice of any such prohibition.
- (2) A person must not drink liquor in Sydney Olympic Park or any part of Sydney Olympic Park in contravention of any such prohibition.  
Maximum penalty: 1 penalty unit.
- (3) A person is not guilty of an offence under this clause unless it is established that on the day of the contravention a person authorised by the Authority or a police officer warned the person that the drinking of liquor was prohibited and that the person commenced to drink, continued to drink or resumed drinking liquor in contravention of the prohibition.

#### **9 Parking**

- (1) The Authority may regulate the parking of vehicles on any part of the public domain by a sign or signs displayed on or adjacent to the part.
- (2) A person must not park a vehicle on a part of the public domain in contravention of a sign displayed in accordance with this clause.  
Maximum penalty: 10 penalty units.
- (3) The Authority or a person authorised by the Authority may direct a person to remove a vehicle that is unlawfully parked and that is under the person's control.

Clause 10 Sydney Olympic Park Authority Regulation 2007

Part 2 Regulation of activities—generally

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(4) A person must comply with a direction under subclause (3).  
Maximum penalty: 10 penalty units.

(5) For the purposes of this clause, *park* includes stand.

#### **10 Use of land by buses**

(1) The Authority may set aside any land within the public domain for use by buses.

(2) The Authority may determine:

- (a) the days and times during which, and the conditions on which, any such land may be used by buses, and
- (b) the charges (if any) to be imposed for the use by buses of any such land.

(3) A person must not, except as authorised by the Authority, contravene any conditions of use of any such land that are displayed in, or at the places of entry into, that land.

Maximum penalty: 20 penalty units.

#### **11 Closure and use of roads**

Clauses 5, 9 and 10:

- (a) do not extend the powers of the Authority under the Act in relation to roads (not being private roads) at Sydney Olympic Park, and
- (b) do not authorise the doing of anything in relation to the control and regulation of traffic on, or the temporary closure of, a road at Sydney Olympic Park contrary to a traffic management plan in force under section 41 of the Act.

#### **12 Securing of vessels to wharves of the Authority**

(1) A person must not, except as authorised by the Authority, secure a vessel to a wharf of the Authority.

Maximum penalty: 20 penalty units.

(2) The Authority may determine:

- (a) the days and times during which, and the conditions on which, a wharf of the Authority may be used to secure vessels, and
- (b) the charges (if any) to be imposed for the use of a wharf of the Authority to secure vessels.

(3) This clause does not apply to a vessel that is secured to a wharf of the Authority at the direction or with the permission of any person or body entitled to give such a direction or permission.

Clause 13 Sydney Olympic Park Authority Regulation 2007

Part 2 Regulation of activities—generally

(4) In this clause:

*vessel* includes a charter boat, water taxi or ferry.

*wharf of the Authority* means a wharf (including a pier, jetty, landing stage or dock) that is vested in or managed by the Authority at Sydney Olympic Park.

### 13 Personal conduct

- (1) A person must not do any of the following at Sydney Olympic Park:
- (a) use indecent, obscene, insulting or threatening language,
  - (b) behave in an offensive or indecent manner,
  - (c) cause serious alarm or affront to a person by disorderly conduct,
  - (d) obstruct a person in the performance of the person's work or duties,
  - (e) fail to comply with a reasonable request or direction given for the purpose of securing good order and management and enjoyment of Sydney Olympic Park, or any part of Sydney Olympic Park, by the Authority, a person authorised by the Authority or a police officer.

Maximum penalty: 10 penalty units.

- (2) Without limiting subclause (1) (e), it is reasonable for the Authority, a person authorised by the Authority or a police officer to request a person:
- (a) to open any bag, container or other thing in the person's possession in order that its contents may be inspected, and
  - (b) to permit any thing in the person's possession, and the contents of any such thing, to be inspected.

### 14 Provision and operation of public services and facilities

- (1) The Authority may, at Sydney Olympic Park, provide, or authorise any other person to provide, any one or more of the following:
- (a) public services,
  - (b) public information,
  - (c) first aid,
  - (d) food and beverages,
  - (e) entertainment (such as concerts, dancing and theatre, whether or not involving the participation of the public),
  - (f) commercial services,
  - (g) any thing for sale or distribution to any person.

Clause 14 Sydney Olympic Park Authority Regulation 2007

Part 2 Regulation of activities—generally

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- (2) The Authority may, at Sydney Olympic Park, construct, install, provide, operate and maintain, or authorise any other person to construct, install, provide, operate or maintain, any one or more of the following (whether for the purpose of providing any thing referred to in subclause (1) or otherwise):
- (a) toilets (including temporary toilets),
  - (b) places and areas for giving information, including associated infrastructure,
  - (c) first aid units (mobile and non-mobile),
  - (d) tents, shelters, marquees, sheds, vans and other structures and facilities for the sale and supply of food and beverages, including bars and areas for corporate entertainment and promotion,
  - (e) infrastructure for or associated with the sale or supply of food and beverages (such as refrigeration units, counters and storage units),
  - (f) infrastructure for or associated with entertainment (such as steps, stages, platforms and towers),
  - (g) video screens and sound systems,
  - (h) tents, shelters, marquees, sheds, vans and other structures and facilities for commercial outlets,
  - (i) underground, on-ground and aboveground utilities (such as utilities for the provision of energy and water),
  - (j) fences, barricades and bollards,
  - (k) tables,
  - (l) seating,
  - (m) tents, shelters, marquees, sheds, vans and other structures and facilities for site services,
  - (n) temporary hardstand areas,
  - (o) temporary areas of ground protection,
  - (p) ramps for disability access,
  - (q) site sheds and vans for staff accommodation,
  - (r) temporary signs,
  - (s) temporary flagpoles,
  - (t) temporary site dressing and decoration,
  - (u) amusement devices, carnival rides and similar facilities.

Clause 14 Sydney Olympic Park Authority Regulation 2007

Part 2 Regulation of activities—generally

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- (3) The Authority may determine and impose, or authorise any other person to determine and impose, a fee or charge for or in respect of the provision of any service or facility, or any other thing, in accordance with this clause. Nothing in this subclause affects clause 23.

Clause 15 Sydney Olympic Park Authority Regulation 2007

Part 3 Regulation of activities—sportsgrounds

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## Part 3 Regulation of activities—sportsgrounds

### 15 Reserved areas and reserved seating

- (1) Without limiting clause 5, the Authority may, either generally or for a particular event, set aside any area of a sportsground for reserved seats. An area so set aside is referred to in this clause as a *reserved area*.
- (2) A person who is not in lawful possession of an appropriate ticket must not:
  - (a) enter or remain in a sportsground or any reserved area, or
  - (b) occupy a reserved seat.Maximum penalty: 10 penalty units.
- (3) A person authorised by the Authority or a police officer may direct a person:
  - (a) who is within a sportsground or any reserved area, or
  - (b) who is occupying a reserved seat,to produce an appropriate ticket for inspection by the person or police officer.
- (4) A person authorised by the Authority or a police officer may direct a person who is in unlawful possession of a ticket to surrender the ticket to the person or police officer.
- (5) A person must comply with a direction under this clause. Maximum penalty: 10 penalty units.
- (6) In this clause, *ticket* means a ticket issued by the Authority or a person authorised by the Authority, being a ticket that authorises its holder:
  - (a) to enter a sportsground or a reserved area within a sportsground, or
  - (b) to occupy a reserved seat in a reserved area.

### 16 Prohibited entry to playing fields

A person must not enter or remain on a playing field or other competition area within a sportsground unless the person:

- (a) is a participant in a sport or event held with the authorisation of the Authority, or
- (b) is engaged in the control or management of any such sport or event, or

Clause 17 Sydney Olympic Park Authority Regulation 2007

Part 3 Regulation of activities—sportsgrounds

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- (c) has, or is a member of a class of persons that has, been authorised by the Authority to enter the playing field or other competition area.

Maximum penalty: 50 penalty units.

**17 Removal from sportsground**

- (1) A person who contravenes any provision of this Regulation while at a sportsground, or who trespasses or causes annoyance or inconvenience on any part of a sportsground, may be removed from the sportsground or the relevant part of the sportsground by a person authorised by the Authority or a police officer.
- (2) A person authorised by the Authority or a police officer acting in accordance with this clause may use such force as is reasonable in the circumstances for the purpose of discharging his or her functions under this clause.

**18 Banning from sportsground**

- (1) A person who is removed from a playing field or other competition area within a sportsground as a result of contravening clause 16 is banned from entering the sportsground for a period of 12 months commencing on the day the person is so removed.
- (2) A person who is so banned from entering a sportsground under subclause (1) and who is found on any part of the sportsground during the period of the ban is banned from entering the sportsground for life.
- (3) A person who has been banned from entering a sportsground under subclause (1) and who is at any subsequent time removed from the sportsground as a result of contravening clause 16 is banned from entering the sportsground for life.

**19 Authority may ban persons for specified period**

- (1) The Authority may ban a person from entering any part of Sydney Olympic Park for such period (not exceeding 6 months) as the Authority determines if the person contravenes any provision of this Regulation.
- (2) This clause does not apply to a person who is banned from entering a sportsground under clause 18.

**20 Taking photographs of certain persons**

The Authority may take a photograph or make another form of image of a person who is removed from a sportsground under this Regulation.



Clause 21 Sydney Olympic Park Authority Regulation 2007

Part 3 Regulation of activities—sportsgrounds

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**21 Observance of ticket conditions**

A person who has gained admission to an event at a sportsground must not contravene or fail to comply with the conditions of the ticket for the event.

Maximum penalty: 20 penalty units.

Clause 22	Sydney Olympic Park Authority Regulation 2007
Part 4	Authority's functions as a local government council

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## Part 4 Authority's functions as a local government council

### 22 Conferral of functions

Pursuant to section 19 of the Act, the Authority, in relation to Sydney Olympic Park, has and may exercise to any necessary extent the following functions of a council (within the meaning of the *Local Government Act 1993*) under the following provisions as in force for the time being:

- (a) in the case of the *Environmental Planning and Assessment Act 1979*:
  - (i) Divisions 2, 2A, 3, 6, 6A and 7 of Part 4, and
  - (ii) Part 7A, and
  - (iii) sections 149A–149G,

**Note.** The Authority may exercise the functions of a council under Part 6 (Implementation and enforcement) of the *Environmental Planning and Assessment Act 1979*—see section 25 of the *Sydney Olympic Park Authority Act 2001*.
- (b) in the case of the *Environmental Planning and Assessment Regulation 2000*—Parts 4, 6, 7, 8, 9, 12 and 16, clauses 260, 280, 281, 284 and 286, Parts 2, 3 and 4 of Schedule 1, and Schedule 5,
- (c) in the case of the *Local Government Act 1993*:
  - (i) Part 1 (Approvals) of Chapter 7 in so far as it relates to the matters specified in Parts A (Structures or places of public entertainment), C (Management of waste), E (Public roads) and F (Other activities) of the Table to section 68, and
  - (ii) Part 2 (Orders) of Chapter 7, and
  - (iii) Part 5 (Appeals) of Chapter 7, and
  - (iv) Part 2 (Entry on to land and other powers) of Chapter 8, and
  - (v) Parts 1 (General offences), 2 (Public places) and 8 (Miscellaneous) of Chapter 16, and
  - (vi) Chapter 17, except section 674 and Divisions 4 and 5 of Part 2 (Proceedings by the council or its employees),
- (d) Parts 2 (Approvals), 3 (Orders) and 12 (Penalty notices) of, and Schedules 1, 2 and 12 to, the *Local Government (General) Regulation 2005*,
- (e) the *Food Act 2003*,
- (f) the *Food Regulation 2004*,

Clause 22 Sydney Olympic Park Authority Regulation 2007

Part 4 Authority's functions as a local government council

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- (g) Part 4 (Microbial control) of the *Public Health Act 1991*,
- (h) the *Public Health (Microbial Control) Regulation 2000*,
- (i) the *Swimming Pools Act 1992*,
- (j) the *Swimming Pools Regulation 1998*,
- (k) any Act, statutory instrument or provision replacing an Act, statutory instrument or provision referred to in paragraphs (a)–(j).

Clause 23 Sydney Olympic Park Authority Regulation 2007

Part 5 Miscellaneous

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## Part 5 Miscellaneous

### 23 Fees

- (1) The Authority may charge and recover a fee for any authorisation it gives or any service it provides under the Act or this Regulation.
- (2) The services for which a fee may be charged include the following:
  - (a) supplying a service, product or commodity,
  - (b) giving information,
  - (c) providing a service in connection with the exercise of the Authority's regulatory functions—for example, receiving an application for an approval or a certificate, granting an approval, making an inspection and issuing a certificate,
  - (d) allowing admission to a sportsground or to any building or enclosure.
- (3) In particular, the Authority may charge a fee for inspecting premises that are reasonably required to be inspected in the exercise of the Authority's functions, whether or not the inspection is requested or agreed to by the owner or occupier of the premises.
- (4) However, the Authority may not charge a fee for the inspection of premises that are not used for a commercial activity, except where it is necessary to inspect the premises in connection with an application for an approval or a certificate concerning the premises or in connection with any inspection that is reasonably necessary to determine if an approval or a certificate has been complied with.
- (5) If inspections of premises are reasonably necessary to determine if an approval or a certificate has been complied with, a fee may not be charged for the inspection of any thing for which the Authority relies on a certificate under section 93 of the *Local Government Act 1993* that the thing has been done in compliance with the approval or certificate.
- (6) A fee charged for inspecting premises must be repaid to the person who paid it if the inspection is not carried out.

### 24 Determination of amount of fee

- (1) The Authority must determine the amount of a fee it proposes to charge before it can impose the fee.
- (2) The Authority may, from time to time, determine to increase or decrease the amount of a fee that has been determined under this clause.

Clause 25 Sydney Olympic Park Authority Regulation 2007

Part 5 Miscellaneous

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- (3) In making a determination under this clause in respect of a fee for giving an authorisation, the Authority must take into consideration the following factors:
  - (a) the cost to the Authority of giving the authorisation,
  - (b) the nature of the authorisation given.
- (4) In making a determination under this clause in respect of a fee for providing a service, the Authority must take into consideration the following factors:
  - (a) the cost to the Authority of providing the service,
  - (b) the price suggested for that service by any relevant industry body or in any schedule of charges published, from time to time, by the government department or agency engaged in the administration of the Act or statutory instrument under which the service is provided,
  - (c) the importance of the service to the community.
- (5) The cost to the Authority of providing a service in connection with the exercise of a regulatory function need not be the only basis for determining the fee for that service.
- (6) A higher fee or an additional fee may be charged for an expedited service provided, for example, in the case of urgency.

## **25 Effect of other Acts and statutory instruments**

- (1) If the amount of a fee for a service is determined under an Act (other than the Act) or statutory instrument, the Authority may charge a fee in addition to the amount determined under the Act concerned or the statutory instrument.
- (2) If the charging of a fee for a service is prohibited under an Act, the Authority must not charge a fee for that service.

## **26 Authority may waive or reduce fees**

The Authority may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the Authority is satisfied that the case falls within a category of hardship or any other category in respect of which the Authority has determined that payment should be so waived or reduced.

## **27 Schedule of fees**

The Authority may, from time to time, publish a schedule of fees that may be charged by the Authority, whether the fees are determined under the Act or this Regulation or under another Act or statutory instrument.

Clause 28 Sydney Olympic Park Authority Regulation 2007

Part 5 Miscellaneous

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### **28 Conditions attaching to authorisations**

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

### **29 Requirement to state name and address**

- (1) A person authorised by the Authority or a police officer who suspects on reasonable grounds that a person at Sydney Olympic Park has committed, or been involved in the commission of, an offence against the Act or this Regulation may require the person to state his or her full name and residential address.
- (2) A person must not:
  - (a) fail without reasonable excuse to comply with a requirement under this clause, or
  - (b) in purported compliance with such a requirement, furnish information that the person knows to be false or misleading.Maximum penalty: 20 penalty units.
- (3) A person is not guilty of an offence against this clause unless it is established that the person authorised by the Authority or police officer warned the person that the failure to comply with the requirement is an offence.

### **30 Removal of certain persons**

- (1) A person who:
  - (a) causes annoyance or inconvenience to other persons at Sydney Olympic Park or a part of Sydney Olympic Park, or
  - (b) contravenes any provision of this Regulation at Sydney Olympic Park, or
  - (c) trespasses on any part of Sydney Olympic Park closed to the public,must leave Sydney Olympic Park or the part of Sydney Olympic Park concerned immediately when requested to do so by a person authorised by the Authority or a police officer.  
Maximum penalty: 20 penalty units.

Clause 31 Sydney Olympic Park Authority Regulation 2007

Part 5 Miscellaneous

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- (2) A person who fails to comply with such a request may be removed from Sydney Olympic Park or the part of Sydney Olympic Park concerned by a person authorised by the Authority or a police officer.
- (3) Reasonable force (including by means of passive restraints) may be used to effect the person's removal.
- (4) A person who leaves or is removed from Sydney Olympic Park or a part of Sydney Olympic Park under this clause must remove any equipment, vehicle or animal, or any other item belonging to or associated with the person from Sydney Olympic Park or the part of Sydney Olympic Park concerned, unless, in the case of a vehicle, the person is so affected by alcohol that the driving of the vehicle by the person would constitute an offence.
- (5) A person is not guilty of an offence against this clause unless it is established that the person authorised by the Authority or police officer warned the person that the failure to comply with the request is an offence.

### **31 Removal of obstructions**

- (1) The Authority or a police officer may order the removal of anything which obstructs or encroaches on any part of land at Sydney Olympic Park.
- (2) The order may be given to either or both of the following:
  - (a) the person who caused the obstruction or encroachment,
  - (b) a person using the thing causing the obstruction or encroachment.
- (3) A person to whom such an order is given must comply with the order.  
Maximum penalty: 20 penalty units.
- (4) The Authority or a police officer may remove the obstruction or encroachment whether or not an order for its removal has been given under this clause.
- (5) The Authority may recover from either of the persons referred to in subclause (2) the Authority's reasonable costs and expenses incurred in removing an obstruction or encroachment.
- (6) This clause does not apply to an obstruction or encroachment if its presence on land at Sydney Olympic Park is authorised:
  - (a) by the Authority, or
  - (b) by any other person having lawful authority, and its presence has not ceased to be so authorised.

Clause 32	Sydney Olympic Park Authority Regulation 2007
Part 5	Miscellaneous

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### 32 Confiscation of articles

- (1) In this clause:  
*article* means any article, equipment or other thing, and includes an animal but does not include an unattended motor vehicle or trailer to which section 44 of the Act applies.  
*authorised person* means a person who is authorised by the Authority.  
*confiscated article* means an article of which an authorised person takes possession under this clause.
- (2) This clause applies to an article:
- (a) that is in the possession of a person, or
  - (b) that is used by a person,
- in contravention of this Regulation.
- (3) An authorised person may take possession of any article to which this clause applies if:
- (a) in the case of an article that is in the possession of a person in contravention of this Regulation—the authorised person has directed the person to remove it from Sydney Olympic Park and the person has not done so, or
  - (b) in the case of an article that is used by a person in contravention of this Regulation—the authorised person has directed the person to stop the use of the article and, despite the direction, the person has continued to use the article in contravention of this Regulation,
- but may not use force to do so.
- (4) On taking possession of a confiscated article, the authorised person must give a receipt to the person from whom it has been taken, indicating the nature of the article and the date and time when the authorised person took possession of it.
- (5) A confiscated article:
- (a) must be returned to the person from whom it was taken, or be delivered to a public pound (within the meaning of the *Impounding Act 1993*), within 24 hours after possession of it is taken, and
  - (b) if it is delivered to a public pound, the person from whom it was taken must be notified in writing of the address of the pound.
- (6) The *Impounding Act 1993* (sections 20 and 23 (2) (b) and (c) excepted) applies to a confiscated article that is delivered to a public pound as if the article had been impounded under that Act. Accordingly, it will become returnable on demand.



Clause 33 Sydney Olympic Park Authority Regulation 2007

Part 5 Miscellaneous

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- (7) The deadline for the release of a confiscated article, as referred to in section 24 of the *Impounding Act 1993*, is taken to be 28 days from the day on which possession of it was taken.

**33 Penalty notices: section 79**

For the purposes of section 79 of the Act:

- (a) each offence created by 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 Column 2 of that Schedule.

**34 Saving**

Any act, matter or thing that had effect under the *Sydney Olympic Park Regulation 2001* immediately before the repeal of that Regulation is taken to have effect under this Regulation.

Sydney Olympic Park Authority Regulation 2007

Penalty notice offences

Schedule 1

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## Schedule 1 Penalty notice offences

(Clause 33)

<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
clause 4	\$200
clause 5 (4)	\$200
clause 6 (1)	\$150
clause 7	\$150
clause 8 (2)	\$20
clause 9 (2)	\$150
clause 9 (4)	\$150
clause 10 (3)	\$200
clause 12 (1)	\$200
clause 13 (1)	\$150
clause 15 (2)	\$150
clause 15 (5)	\$150
clause 16	\$500
clause 21	\$200
clause 28 (3)	\$150
clause 29 (2)	\$200
clause 30 (1)	\$200
clause 31 (3)	\$200



New South Wales

# Teaching Service Regulation 2007

under the

Teaching Service Act 1980

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Teaching Service Act 1980*.

JOHN DELLA BOSCA, M.L.C.,  
Minister for Education and Training

## Explanatory note

The object of this Regulation is to remake, without substantial change, the *Teaching Service Regulation 2001* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation makes provision for the following matters:

- (a) the duties and responsibilities of members of the Teaching Service,
- (b) the management of schools,
- (c) the medical examination of members of the Teaching Service to ascertain their fitness to perform their duties.

This Regulation is made under the *Teaching Service Act 1980*, including section 100 (the general regulation-making power).

Teaching Service Regulation 2007

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Teaching Service Regulation 2007

Clause 1

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## Teaching Service Regulation 2007

under the

Teaching Service Act 1980

### 1 Name of Regulation

This Regulation is the *Teaching Service Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Teaching Service Regulation 2001* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**member of the Teaching Service** means an officer or temporary employee of the Teaching Service, whether a member of the teaching staff, administrative staff or any other staff of the Service.

**school** includes any school department, school faculty or school counselling team, and any other establishment at which a member of the Teaching Service is employed.

**statutory conditions of service** means the provisions of:

- (a) the Act, or
- (b) this Regulation, or
- (c) any determination under section 13 of the Act, that impose duties on members of the Teaching Service.

**the Act** means the *Teaching Service Act 1980*.

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

### 4 Compliance with statutory conditions of service

(1) All members of the Teaching Service must acquaint themselves with the statutory conditions of service.

Clause 5 Teaching Service Regulation 2007

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- (2) The Director-General is to make available to all members of the Teaching Service copies of the following documents in a reasonably accessible form:
  - (a) the Act,
  - (b) this Regulation,
  - (c) all determinations under section 13 of the Act in relation to members of the Teaching Service.
- (3) A member of the Teaching Service who is in charge of a school must report to the Director-General any breach of the statutory conditions of service that comes to the member's knowledge.
- (4) It is sufficient compliance with subclause (2) if the documents are available on the Internet or the Department's Intranet.

#### **5 Compliance with directions**

- (1) A member of the Teaching Service must immediately comply with any lawful direction given by a person who has authority under the Act or this Regulation to give the direction.
- (2) A request for the review of a direction may be made by or on behalf of one or more members of the Teaching Service by means of a notice in writing given to the person who gave the direction.
- (3) The person to whom such a notice is given must immediately send it to the Director-General or to an officer authorised by the Director-General in writing for the purposes of this clause.
- (4) The making of a request for the review of a direction does not relieve a member of the Teaching Service of his or her obligation to comply with the direction as far as is reasonably practicable.

#### **6 Scope of duties**

In addition to discharging the specific duties that the member is employed to discharge, a member of the Teaching Service:

- (a) must participate actively in all of the corporate interests of the Department and of the school in which the member is employed, and
- (b) must undertake such other duties as may be assigned to the member by the person in charge of that school or by any other person having the authority to assign duties.

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**7 Use and disclosure of information**

A member of the Teaching Service must not use or disclose (whether directly or indirectly) any information obtained by or conveyed to the member in the course of the discharge of official duties, except:

- (a) with the express direction or permission of the Minister or the Director-General, or
- (b) in the discharge of official duties, or
- (c) as authorised or required by law.

**8 Holding of local government office**

A member of the Teaching Service may accept and hold the office of mayor of a local government area or chairperson of a county council, but must resign that office if, in the opinion of the Director-General, the holding of that office is incompatible with the proper discharge of his or her duties as a member of the Teaching Service.

**9 Management of schools**

- (1) The member of the Teaching Service who is in charge of a school must manage the school concerned in a proper, efficient, economic and equitable manner.
- (2) The obligations imposed by subclause (1) include the following:
  - (a) having well-stated policies and plans of action, clearly defined goals, a balanced, sequential and appropriate curriculum and suitable mechanisms for supervision, evaluation and documentation that ensure co-ordination of all school activities, continuity of policy and good communication,
  - (b) encouraging and assisting the professional development of members of the Teaching Service without discrimination as required by the *Anti-Discrimination Act 1977*,
  - (c) making effective and economic use of resources,
  - (d) ensuring staff and student discipline,
  - (e) encouraging members of the Teaching Service to submit suggestions for increasing the efficiency of the Teaching Service,
  - (f) training members of the Teaching Service and providing opportunities and facilities for them to improve themselves in matters connected with their official duties:
    - (i) by attendance at courses held at the school or courses organised by or for the school, and
    - (ii) at tertiary institutions,
  - (g) compliance with the *Occupational Health and Safety Act 2000*.

Clause 10 Teaching Service Regulation 2007

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#### 10 Medical examination

- (1) For the purpose of ascertaining the fitness of a member of the Teaching Service to perform his or her duties or to participate in any disciplinary proceedings relating to the member, the Director-General may direct the member to submit to a medical examination by a qualified medical practitioner selected by the Director-General.
- (2) The member of the Teaching Service must comply with the direction.
- (3) If the Director-General has issued any such direction to a member of the Teaching Service, the Director-General may also direct the member of the Teaching Service:
  - (a) if on duty, to cease duty immediately, and
  - (b) not to resume duty until the medical examination is complete and the medical practitioner concerned has furnished a certificate stating that the member is fit for work.

#### 11 Saving

- (1) Any act, matter or thing that had effect immediately before the repeal of the repealed Regulation is taken to have effect under this Regulation.
- (2) In particular, and without limiting subclause (1), clause 4A of the repealed Regulation is taken to have effect under this Regulation.

**Note.** The *Education Legislation Amendment (Staff) Act 2006* omitted provisions of the repealed Regulation relating to breaches of discipline by members of the Teaching Service (**the omitted provisions**) and introduced a new legislative framework. Clause 4A of the repealed Regulation is a transitional provision that makes it clear that anything done, or in the process of being done, under the monitoring procedures in the omitted provisions does not need to be repeated under the new legislative framework. Clause 4A also makes it clear that the omitted provisions continue to apply to a breach of discipline charge that was not finally determined before the omission of those provisions.
- (3) In this clause, the **repealed Regulation** means the *Teaching Service Regulation 2001*.





New South Wales

# Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2007

under the

Water Management Act 2000

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Management Act 2000*.

PHILIP KOPERBERG, M.P.,  
Minister for Climate Change, Environment and Water

## Explanatory note

The object of this Regulation is to provide for the distribution of any funds held by the Benerembah Irrigation District Environment Protection Trust to landholders within the Trust's area of operations but only with the approval of the Minister for Climate Change, Environment and Water.

This Regulation replaces the *Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001*, which is repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*. This Regulation is repealed at the end of 31 August 2008.

This Regulation is made under the *Water Management Act 2000*, including Part 2 of Chapter 6 and sections 322 (1) (i) and 400 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely, matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation  
2007

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Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2007

Clause 1

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## Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2007

under the

Water Management Act 2000

### 1 Name of Regulation

This Regulation is the *Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2001* which is repealed on 1 September 2007 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

*the Act* means the *Water Management Act 2000*.

*Trust* means Benerembah Irrigation District Environment Protection Trust.

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

### 4 Area of operations of Trust

Pursuant to section 289 (1) of the Act, the area of operations of the Trust is the area shown bounded by a red line on the map numbered 123—630 and held at the office of the Department of Water and Energy.

### 5 Function of Trust

Pursuant to section 289 (2) of the Act, the Trust has, and may exercise in its area of operations, only the function of providing refunds in accordance with clause 6.

### 6 Refunds to landholders

The Trust may, with the approval of the Minister and in accordance with that approval, refund to landholders (including former landholders) in its area of operations any funds held by it.

Clause 7            Water Management (Benerembah Irrigation District Environment Protection Trust) Regulation 2007

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**7 Repeal of Regulation**

This Regulation is repealed at the end of 31 August 2008.



New South Wales

# Wentworth Irrigation Regulation 2007

under the

Wentworth Irrigation Act 1890

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Wentworth Irrigation Act 1890*.

ANTHONY KELLY, M.L.C.,  
Minister for Lands

## Explanatory note

This Regulation remakes, without any major changes in substance, the *Wentworth Irrigation Regulation 2002*. That Regulation will be repealed on 1 September 2007 under section 10 (2) of the *Subordinate Legislation Act 1989*.

The object of this Regulation is to provide for the following matters:

- (a) the recovery of amounts payable under the *Wentworth Irrigation Act 1890*,
- (b) the charging of interest on arrears of rent,
- (c) the making of applications for the consent of the Lands Administration Ministerial Corporation to transfers or other dealings,
- (d) the surrender of leases,
- (e) the granting of licences to occupy,
- (f) other matters of a minor, consequential or ancillary nature.

This Regulation is made under the *Wentworth Irrigation Act 1890*, including section 33 (the general regulation-making power).

This Regulation comprises or relates to matters of a machinery nature.

Wentworth Irrigation Regulation 2007

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Wentworth Irrigation Regulation 2007

Clause 1

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## Wentworth Irrigation Regulation 2007

under the

Wentworth Irrigation Act 1890

### 1 Name of Regulation

This Regulation is the *Wentworth Irrigation Regulation 2007*.

### 2 Commencement

This Regulation commences on 1 September 2007.

**Note.** This Regulation replaces the *Wentworth Irrigation Regulation 2002* which is repealed on 1 September 2007 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 Ministerial Corporation.

**Ministerial Corporation** means the Lands Administration Ministerial Corporation constituted by the *Crown Lands Act 1989*.

**the Act** means the *Wentworth Irrigation Act 1890*.

**Western Lands Office** means the Western Lands Office, Department of Natural Resources, Dubbo.

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

### 4 Recovery of amounts payable under the Act

Any amount payable under the Act may be recovered as a debt due to the Ministerial Corporation.

### 5 Interest on arrears of rent

(1) Any rent payable under the Act accrues interest at the rate prescribed for the time being under section 148 (2) of the *Crown Lands Act 1989*.

(2) The Ministerial Corporation may, if it is satisfied that the circumstances so warrant, postpone or waive payment of the whole or any part of any interest payable under this clause or remit the whole or any part of any interest that has been paid.

Clause 6          Wentworth Irrigation Regulation 2007

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**6 Applications for consent to transfers or other dealings**

- (1) An application for the consent of the Ministerial Corporation to a transfer or other dealing, as referred to in section 26 of the Act, must be lodged at the Western Lands Office.
- (2) The application must be accompanied by a fee of the amount prescribed for the time being under clause 9 of the *Crown Lands (Continued Tenures) Regulation 2006*.

**7 Surrender of leases**

- (1) A lessee may at any time, with the consent of the Ministerial Corporation, surrender the lease or part of the lease.
- (2) The Ministerial Corporation may accept a surrender.

**8 Granting of licences to occupy**

- (1) The Ministerial Corporation may grant licences to occupy land within the Area subject to such conditions as it determines.
- (2) A licence to occupy may be terminated at any time by either party by notice in writing to the other party.

**9 Savings**

Any act, matter or thing that, immediately before the repeal of the *Wentworth Irrigation Regulation 2002*, had effect under that Regulation continues to have effect under this Regulation.



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# Orders

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New South Wales

## Anglican Church of Australia (Anglican Care) Order 2007

under the

Anglican Church of Australia (Bodies Corporate) Act 1938

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 4 of the *Anglican Church of Australia (Bodies Corporate) Act 1938*, make the following Order.

Dated, this 22nd day of August 2007.

By Her Excellency's Command,

JOHN HATZISTERGOS, M.L.C.,  
Attorney General

### Explanatory note

Section 4 of the *Anglican Church of Australia (Bodies Corporate) Act 1938* provides that persons who, for the time being, are members of an unincorporated body that is constituted by an ordinance of the Synod of a diocese for the purposes of managing, governing or controlling an institution or organisation of the Anglican Church of Australia, or of dealing with any church trust property, may be the subject of a declaration by an ordinance of the Synod that it is expedient to constitute them as a body corporate. Once the ordinance making the declaration is passed, the Governor may, by order published in the Gazette, declare the members of the unincorporated body to be a body corporate.

The object of this Order is to declare that the members of Anglican Care are a body corporate known as "Anglican Care". The relevant ordinances are the *C.A. Brown Anglican Village Ordinance 1995* and the *Anglican Care Incorporation Ordinance 2006*.

This Order is made under section 4 of the *Anglican Church of Australia (Bodies Corporate) Act 1938*.

Clause 1 Anglican Church of Australia (Anglican Care) Order 2007

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## **Anglican Church of Australia (Anglican Care) Order 2007**

under the

Anglican Church of Australia (Bodies Corporate) Act 1938

### **1 Name of Order**

This Order is the *Anglican Church of Australia (Anglican Care) Order 2007*.

### **2 Commencement**

This Order commences on 1 October 2007.

### **3 Anglican Care**

It is declared that persons who for the time being are members of the body known as Anglican Care constituted under the *C.A. Brown Anglican Village Ordinance 1995* are a body corporate under the name "Anglican Care".



New South Wales

## Subordinate Legislation (Postponement of Repeal) Order 2007

under the

Subordinate Legislation Act 1989

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant-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 29th day of August 2007.

By His Excellency's Command,

MORRIS IEMMA, M.P.,  
Premier

Clause 1 Subordinate Legislation (Postponement of Repeal) Order 2007

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## **Subordinate Legislation (Postponement of Repeal) Order 2007**

under the

Subordinate Legislation Act 1989

### **1 Name of Order**

This Order is the *Subordinate Legislation (Postponement of Repeal) Order 2007*.

### **2 Commencement**

This Order commences on 31 August 2007.

### **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 2007 to 1 September 2008.

Subordinate Legislation (Postponement of Repeal) Order 2007

Statutory rules

Schedule 1

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## Schedule 1 Statutory rules

(Clause 3)

*Associations Incorporation Regulation 1999*

*Bail Regulation 1999*

*Building and Construction Industry Security of Payment Regulation 2001*

*Casino Control Regulation 2001*

*Child Protection (Offenders Registration) Regulation 2001*

*Children and Young Persons (Care and Protection) Regulation 2000*

*Companion Animals Regulation 1999*

*Consumer Credit Administration Regulation 2002*

*Consumer, Trader and Tenancy Tribunal Regulation 2002*

*Contaminated Land Management Regulation 1998*

*Crimes (Administration of Sentences) Regulation 2001*

*Crimes (Forensic Procedures) Regulation 2000*

*Electricity Supply (General) Regulation 2001*

*Electricity Supply (Safety and Network Management) Regulation 2002*

*Employment Protection Regulation 2001*

*Environmental Planning and Assessment Regulation 2000*

*Environmentally Hazardous Chemicals Regulation 1999*

*Fisheries Management (Aquatic Reserves) Regulation 2002*

*Fisheries Management (General) Regulation 2002*

*Gaming Machines Regulation 2002*

*Gas Supply (Gas Meters) Regulation 2002*

*Gas Supply (Natural Gas Retail Competition) Regulation 2001*

*Gas Supply (Safety Management) Regulation 2002*

*Grain Marketing Regulation 2001*

*Industrial Relations (General) Regulation 2001*

*Marine Parks Regulation 1999*

*Mental Health Regulation 2000*

*Mines Inspection General Rule 2000*

*Mines Inspection Regulation 1999*

## Subordinate Legislation (Postponement of Repeal) Order 2007

Schedule 1 Statutory rules

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*Motor Vehicle Repairs Regulation 1999*  
*National Parks and Wildlife Regulation 2002*  
*Occupational Health and Safety Regulation 2001*  
*Occupational Health and Safety (Clothing Factory Registration) Regulation 2001*  
*Parliamentary Electorates and Elections Regulation 2001*  
*Pesticides Regulation 1995*  
*Pharmacy (Elections) Regulation 1998*  
*Pharmacy (General) Regulation 1998*  
*Poisons and Therapeutic Goods Regulation 2002*  
*Police Regulation 2000*  
*Protection of the Environment Operations (Clean Air) Regulation 2002*  
*Protection of the Environment Operations (General) Regulation 1998*  
*Protection of the Environment Operations (Noise Control) Regulation 2000*  
*Public Health (Disposal of Bodies) Regulation 2002*  
*Public Health (General) Regulation 2002*  
*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*  
*Public Trustee Regulation 2001*  
*Retirement Villages Regulation 2000*  
*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 (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*  
*Rookwood Necropolis Regulation 2002*  
*Royal Botanic Gardens and Domain Trust Regulation 2002*  
*Rural Fires Regulation 2002*  
*Rural Lands Protection (General) Regulation 2001*

Subordinate Legislation (Postponement of Repeal) Order 2007

Statutory rules

Schedule 1

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*Swimming Pools Regulation 1998*

*Sydney Water Catchment Management (Environment Protection) Regulation 2001*

*Sydney Water Catchment Management (General) Regulation 2000*

*Tow Truck Industry Regulation 1999*

*Weapons Prohibition Regulation 1999*

**OFFICIAL NOTICES****Appointments****STATE EMERGENCY AND RESCUE  
MANAGEMENT ACT 1989**Revocation of Appointment of State Emergency  
Operations Controller

HIS Excellency the Lieutenant Governor with the advice of the Executive Council, in pursuance of Schedule 1 (5) (2) to the State Emergency and Rescue Management Act 1989, has approved the revocation of the appointment of Deputy Commissioner ANDREW SCIPIONE, NSW Police, as State Emergency Operations Controller, at midnight 31 August 2007.

NATHAN REES, M.P.,  
Minister for Emergency Services

**THE UNIVERSITY OF NEW SOUTH WALES  
ACT 1989**

## Notification of Appointment to the Council

I, John Della Bosca, Minister for Education and Training, in pursuance of section 9 (1) (b) of the University of New South Wales Act 1989, appoint the following person as member of the Council of the University of New South Wales:

Mr WARWICK NEGUS – for a term of office expiring  
on 30 June 2011

JOHN DELLA BOSCA, M.L.C.,  
Minister for Education and Training

**STATE EMERGENCY AND RESCUE  
MANAGEMENT ACT 1989**

## Appointment of State Emergency Operations Controller

HIS Excellency the Lieutenant Governor with the advice of the Executive Council, in pursuance of section 18 (1) of the State Emergency and Rescue Management Act 1989, has appointed Assistant Commissioner ROBERT MAY, NSW Police, as State Emergency Operations Controller for the purposes of administering the requirements of the State Emergency and Rescue Management Act 1989 effective from 1 September 2007.

NATHAN REES, M.P.,  
Minister for Emergency Services



# Department of Lands

## DUBBO OFFICE

142 Brisbane Street (PO Box 865), Dubbo NSW 2830

Phone: (02) 6841 5200 Fax: (02) 6841 5231

### RESERVATION OF CROWN LAND

PURSUANT to section 87 of the Crown Lands Act 1989, the Crown land specified in Column 1 of the Schedule hereunder is reserved as 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>
Land District: Nyngan	Reserve No. 1013433
Local Government Area: Lachlan Shire Council	Public Purpose: Future Public Requirements
Parish: Beaconsfield	
County: Kennedy	
Locality: Tottenham	
Lot 7019, DP 753968#	
Lot 7020, DP 753968#	
Area: 11.51 ha.	
File Reference: DB03 H 90	

Disclaimer: # Please note that the above Lot numbers marked # are for Departmental use only.

### REVOCATION OF RESERVATION OF CROWN LAND

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown land specified in Column 1 of the Schedule hereunder is revoked to the extent 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>
Land District: Nyngan	The whole being
Local Government Area: Lachlan Shire Council	Lot 1, DP 752921, Parish Wilmatha, County Flinders
Locality: Willmatha	of an area of 3015ha
Reserve No. 80465	
Public Purpose: Generally	
Notified: 21 March 1958	
File Reference: DB07 H 55/1	
Notes: Revocation of Reserve	

### REVOCATION OF RESERVATION OF CROWN LAND

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown land specified in Column 1 of the Schedule hereunder is revoked to the extent 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>
Land District: Walgett	The part being
Local Government Area: Walgett Shire Council	Lot 11, DP 752258, Parish Myall, County Denham
Locality: Myall	of an area of 1780.79ha
Reserve No. 94931	
Public Purpose: Future Public Requirements	
Notified: 22 May 1981	
<i>Lot DP Parish County</i>	
11 752258 Myall Denham	
15 752258 Myall Denham	
16 752258 Myall Denham	
File Reference: DB05 H 305/1	
Notes: Revocation of reserve.	

### REVOCATION OF RESERVATION OF CROWN LAND

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown land specified in Column 1 of the Schedule hereunder is revoked to the extent 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>
Land District: Nyngan	The part being
Local Government Area: Lachlan Shire Council	Lot 17, DP 754000, Parish Meryula, County Kennedy
Locality: Meryula	Lot 16, DP 754000, Parish Meryula, County Kennedy
Reserve No. 76934	of an area of 668.8ha
Public Purpose: Generally	
Notified: 30 July 1954	
<i>Lot DP Parish County</i>	
9 754000 Meryula Kennedy	
14 754000 Meryula Kennedy	
16 754000 Meryula Kennedy	
17 754000 Meryula Kennedy	
File Reference: DB05 H 40/1	
Notes: Revocation of Reserve	

### NOTIFICATION OF CLOSING OF ROADS

IN pursuance of the provisions of the Roads Act 1993, the roads hereunder specified are closed and the lands comprised therein are freed and discharged from any rights of the public or any other person to the same as highways.

TONY KELLY, M.L.C.,  
Minister for Lands

Description	SCHEDULE	
<i>Local Government Area and Land District – Dubbo</i>	<i>Column 1</i>	<i>Column 2</i>
<p>Lot 1 in DP 1116083, Parish of Whylandra, County of Gordon (not being land under the Real Property Act). File No.: DB06 H 22</p> <p>Note: On closing, the title for Lot 1 shall vest in the State of New South Wales as Crown land.</p>	<p>Land District: Nyngan Local Government Area: Bogan Shire Council Locality: Bergo Reserve No. 95130 Public Purpose: Future Public Requirements Notified: 5 June 1981</p>	<p>The part being Lot 39, DP 753420, Parish Bergo, County Gregory of an area of 47.75ha</p>
<hr/> <p><b>REVOCATION OF RESERVATION OF CROWN LAND</b></p> <p>PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown land specified in Column 1 of the Schedule hereunder is revoked to the extent specified opposite thereto in Column 2 of the Schedule.</p> <p style="text-align: center;">TONY KELLY, M.L.C., Minister for Lands</p>		
<p style="text-align: center;">Notes: Purchase of Perpetual Lease 109376 – T &amp; S Waterhouse</p>		

### GOULBURN OFFICE

**159 Auburn Street (PO Box 748), Goulburn NSW 2580**  
**Phone: (02) 4828 6725      Fax: (02) 4828 6730**

#### NOTIFICATION OF CLOSING OF A 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 public road and the rights of passage and access that previously existed in relation to the road are extinguished. Upon closing, title to the land comprising the former public road, vests in the body specified hereunder.

TONY KELLY, M.L.C.,  
Minister for Lands

#### DESCRIPTION

*Parish – Tuggeranong; County – Murray*  
*Land District – Queanbeyan*  
*LGA – Queanbeyan City Council*

Lots 50 and 51, DP 1097874 (not being land under the Real Property Act). File Reference: GB07 H 55.BA

Note: On closing, the title for the land in Lots 50 and 51, DP 1097874 remains vested in Queanbeyan City Council as operational land.

In accordance with section 44 of the Roads Act 1993, the Crown consents to the land in Lots 50 and 51, DP 1097874 being vested in the Queanbeyan City Council as operational land, to be given by the Council as compensation for other land acquired by the Council for the purpose of the Roads Act.

**GRAFTON OFFICE**  
**76 Victoria Street (Locked Bag 10), Grafton NSW 2460**  
**Phone: (02) 6640 3400 Fax: (02) 6642 5375**

**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 reserves specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

**SCHEDULE**

*Column 1*

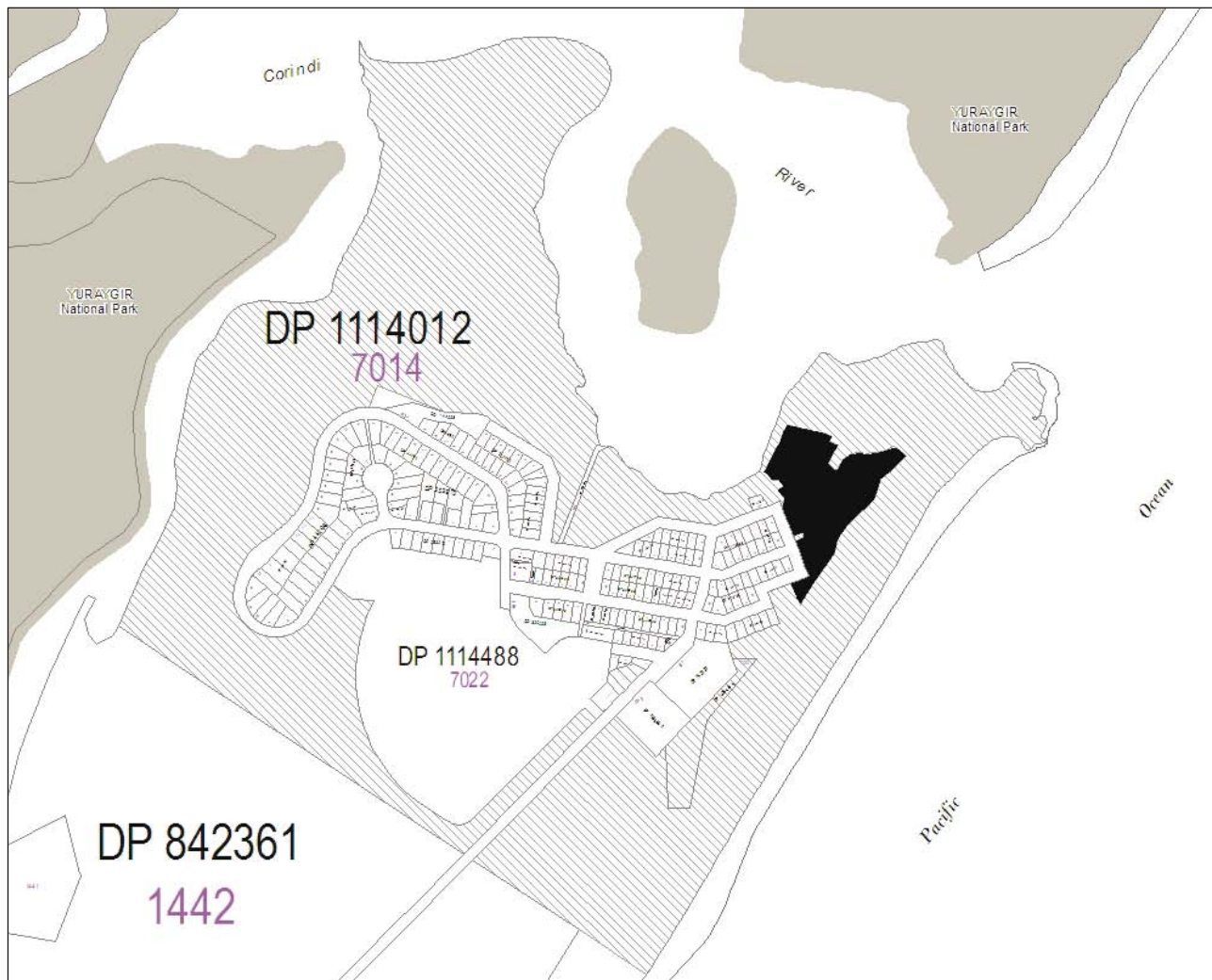
Red Rock Coast Trust

*Column 2*

Part Reserve No. 64746  
 Public Purpose: Resting Place  
 Public Recreation  
 Notified: 14 September 1934  
 The part shown by hatching on diagram hereunder.

Reserve No. 86054  
 Public Purpose: Children's Playground  
 Notified: 11 November 1966

Reserve No. 97655  
 Public Purpose: Public Recreation  
 Notified: 18 January 1985  
 File Reference: 07/2216



Note: This notice replaces the notice that appeared in the *Government Gazette* of 10 August 2007 Folio 5649 under the heading of "Establishment of Reserve Trust".

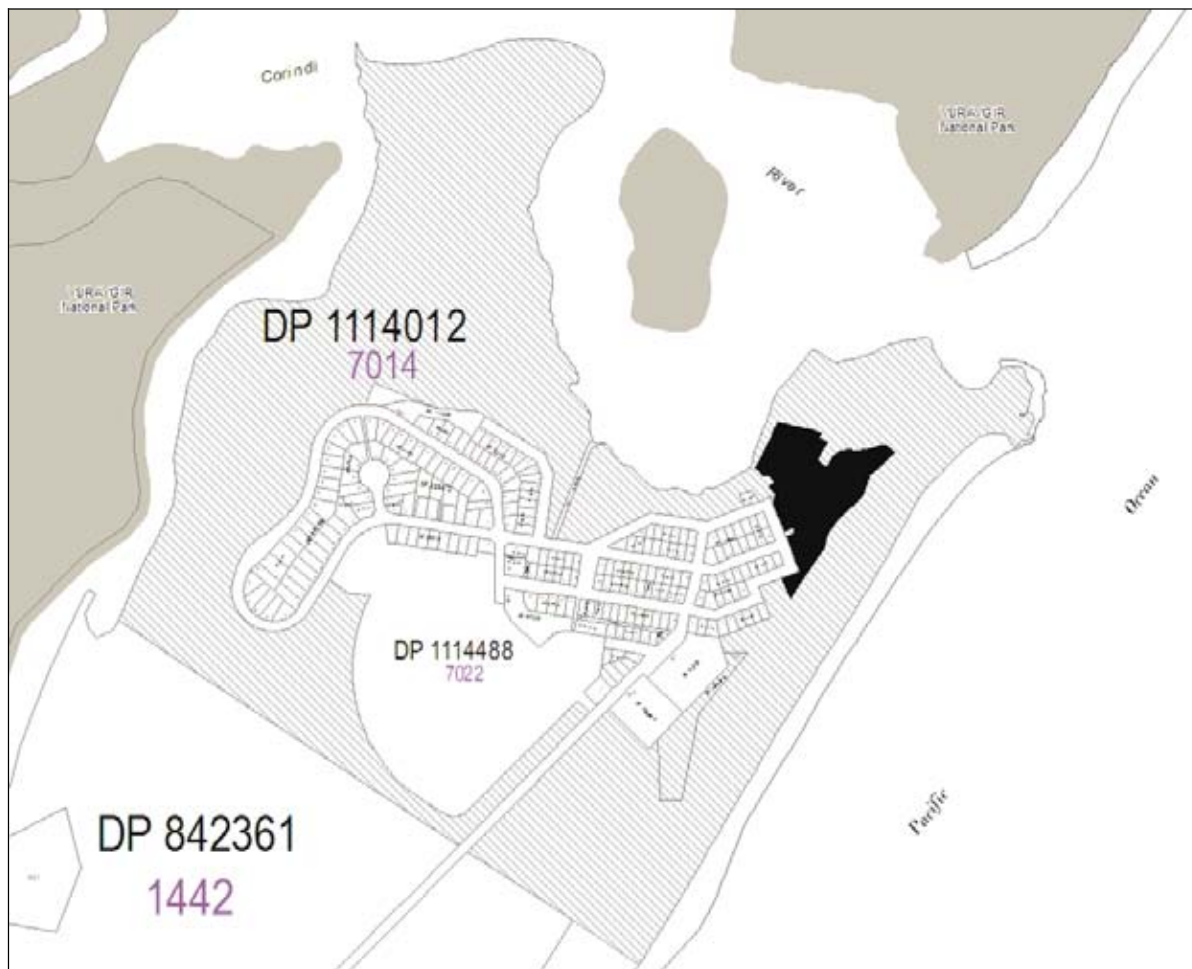
**APPOINTMENT OF ADMINISTRATOR TO MANAGE A RESERVE TRUST**

PURSUANT to section 117 of the Crown Lands Act 1989, the person specified in Column 1 of the Schedule hereunder is appointed as administrator for the term also specified in Column 1, of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserves 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>
Robert Fish	Red Rock Coast Trust	Part Reserve No.64746 The part shown by hatching on diagram hereunder. Purpose: Resting Place Public Recreation Notified: 14 September 1934 Parish of Corindi County of Fitzroy Reserve No. 86054 Public Purpose: Children's Playground Notified: 11 November 1966 Parish of Corindi County Fitzroy Reserve No. 97655 Public Purpose: Public Recreation Notified: 18 January 1985 Parish of Corindi County of Fitzroy File Reference: 07/2216



For a term commencing the date of this notice and expiring 9 February 2008.

Note: This notice replaces the notice that appeared in the *Government Gazette* of 10 August 2007, Folio 5648 under the heading of "Appointment of Administrator to Manage a Reserve Trust".



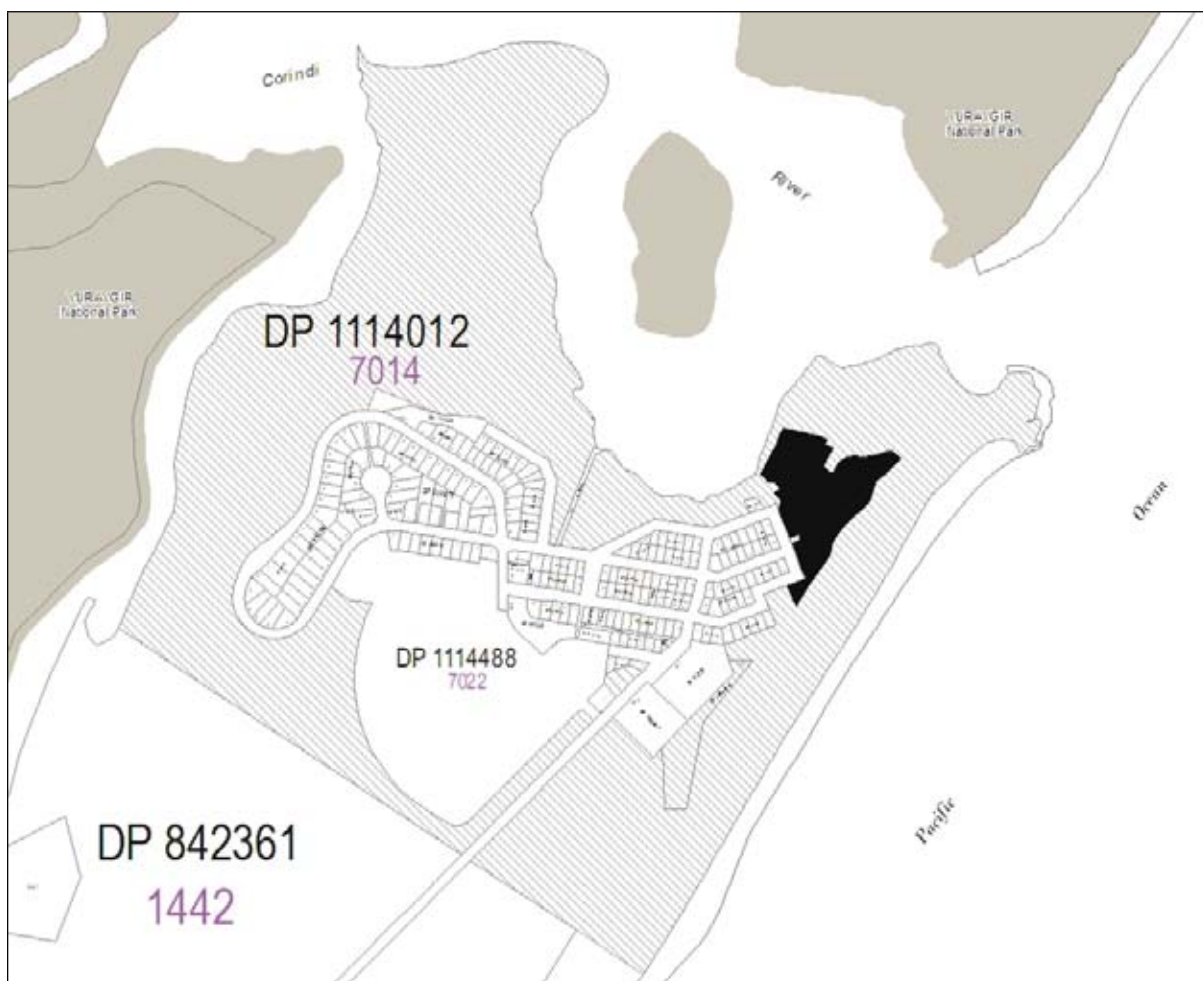
**APPOINTMENT OF ADMINISTRATOR TO MANAGE A RESERVE TRUST**

PURSUANT to section 117 of the Crown Lands Act 1989, the person specified in Column 1 of the Schedule hereunder is appointed as administrator for the term also specified in Column 1, of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserve referred to in Column 3 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Geoff Firkin	Red Rock Public Recreation Reserve Trust	Part Reserve No. 64746 Purpose: Resting Place Public Recreation. The part shown by black colour on the diagram hereunder Parish of Corindi. County of Rous File Reference: GF81 R 98



For a term commencing the date of this notice and expiring 9 February 2008.

Note: This notice replaces the notice that appeared in the *Government Gazette* of 10 August 2007, Folio 5649 under the heading of "Appointment of Administrator to Manage a Reserve Trust".

### REMOVAL OF RESERVE TRUST FROM MANAGEMENT OF RESERVE

PURSUANT to section 96 (2) of the Crown Lands Act 1989, the reserve trust specified in Schedule 1 hereunder is removed from of management of that part of the reserves specified in Schedule 2.

TONY KELLY, M.L.C.,  
Minister for Lands

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#### SCHEDULE 1

Red Rock Public Recreation Reserve Trust

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#### SCHEDULE 2

Part Reserve No. 64746

Public Purpose: Resting Place

Public Recreation

Notified: 14 September 1934

The part shown by hatching on diagram hereunder

Parish Corindi

County Fitzroy

Reserve No. 86054

Public Purpose: Children's Playground

Notified: 11 November 1966

Parish Corindi

County Fitzroy

Reserve No. 97655

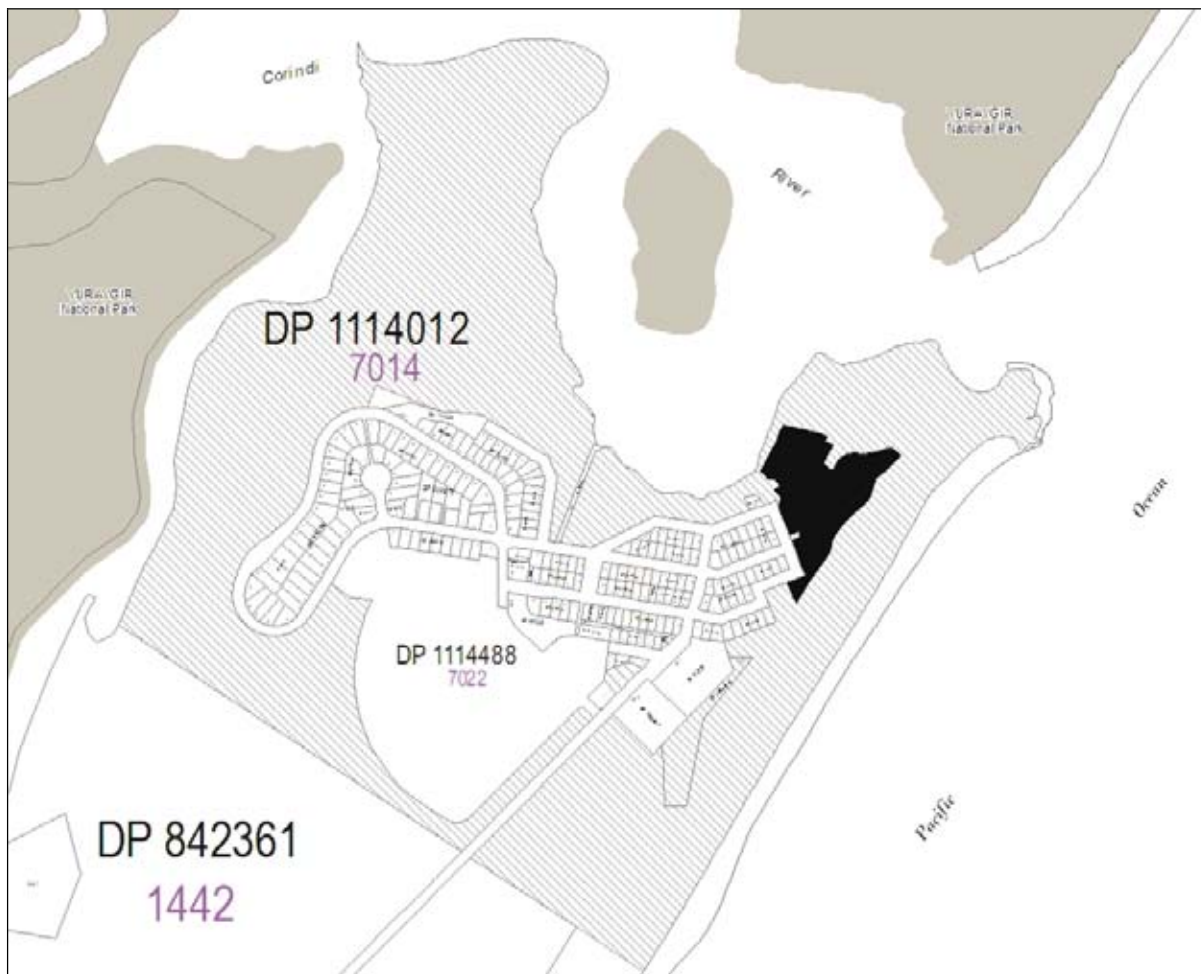
Public Purpose: Public Recreation

Notified: 18 January 1985

Parish Corindi

County Fitzroy

File Reference: 07/2216



Note: This notice replaces the notice that appeared in the *Government Gazette* of 10 August 2007 Folios 5648 and 5649 under the heading of "Removal of Reserve Trust from Management of Reserve".

**NOTIFICATION OF CLOSING OF ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access the previously existed in relation to the road are extinguished. On road closing, title to the land comprising the former public road vests in the body specified in the Schedule hereunder.

TONY KELLY, M.L.C.,  
Minister for Lands

## Description

*Land District – Casino; LGA – Kyogle Council*

Roads Closed: Lot 7001, DP 755711 and Lot 7002, DP 1101644 at Wadeville, Parish Hanging Rock, County Rous.

File Reference: GF04 H 61

## SCHEDULE

On closing, the land within Lot 7002, DP 1101644 remains vested in the State of New South Wales as Crown Land.

On closing, the land within Lot 7001, DP 755711, the former Council public road is vested in the State of New South Wales as Crown Land.

Note: These Crown lands have been reserved for public recreation on this day.

**RESERVATION OF CROWN LAND**

PURSUANT to section 87 of the Crown Lands Act 1989, the Crown land specified in Column 1 of the schedule hereunder is reserved as specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

## SCHEDULE

*Column 1*

Land District: Casino  
Local Government Area:  
Kyogle Shire Council  
Locality: Hanging Rock  
Lot 7002, DP 1101644 #,  
Parish Hanging Rock,  
County Rous  
Lot 7001, DP 755711 #,  
Parish Bonville,  
County Raleigh  
Area: About 2.214ha  
File Reference: GF04 R 32/1

*Column 2*

Reserve No. 1013709  
Public Purpose: Public  
Recreation

Disclaimer: # Please note that the above Lot numbers marked # are for Departmental use only.

**APPOINTMENT OF RESERVE TRUST AS TRUSTEE OF A RESERVE**

PURSUANT to section 92 (1) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder 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

*Column 1*

Wadeville (R91046)  
Reserve Trust

*Column 2*

Reserve No. 1013709  
Public Purpose: Public  
Recreation  
Notified: This Day  
File Reference: GF02 R 35/1

**MAITLAND OFFICE****Corner Newcastle Road and Banks Street (PO Box 6), East Maitland NSW 2323****Phone: (02) 4937 9300 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

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**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Lands Administration Ministerial Corporation	Waratah Community Reserve (R1014028) Reserve Trust	Reserve No. 1014028 Public Purpose: Community Purposes Notified: This day File Ref.: MD81 H 464/2

**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

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**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>
Waratah Community Reserve (R1014028) Reserve Trust	Reserve No. 1014028 Public Purpose: Community Purposes Notified: This Day File Ref.: MD81 H 464/2

**RESERVATION OF CROWN LAND**

PURSUANT to section 87 of the Crown Lands Act 1989, the Crown land specified in Column 1 of the schedule hereunder is reserved as specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

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**SCHEDULE**

<i>Column 1</i>	<i>Column 2</i>
Land District: Newcastle Local Government Area: Newcastle City Council Locality: Waratah Lot 3188, DP 44990, Parish Newcastle, County Northumberland Area: About 6325m2 File Reference: MD81 H 464/2	Reserve No. 1014028 Public Purpose: Community Purposes



**MOREE OFFICE****Frome Street (PO Box 388), Moree NSW 2400****Phone: (02) 6752 5055 Fax: (02) 6752 1707****REVOCATION OF RESERVATION OF  
CROWN LAND**

PURSUANT to section 90 of the Crown Lands Act 1989, the reservations of Crown land specified in Column 1 of the Schedule hereunder are revoked to the extent 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>
Land District: Moree Local Government Area: Moree Plains Reserve No: 94261 Purpose: Future Public Requirements Notified: 30 January 1981 File No: ME94 H 261	The whole being Lot 16 DP 750441 Parish Caidmurra , County Benarba of 1574 ha.
Land District: Moree Local Government Area: Moree Plains Reserve No: 93192 Purpose: Future Public Requirements Notified: 18 July 1980 File No: ME94 H 262	The whole being Lot 21, DP 750441, Parish Caidmurra , County Benarba of 1946 ha.

**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>
Russell Whitton (new member)	Boobera Lagoon (R1009930) Reserve Trust	Reserve No. 1009930 Public Purpose: Environmental Protection Heritage Purposes Public Recreation Notified: 12 March 2004 File Reference: ME03 R 8
For a term commencing the date of this notice and expiring 11 March 2009.		

**NEWCASTLE OFFICE****437 Hunter Street, Newcastle NSW 2300 (PO Box 2185, Dangar NSW 2309****Phone: (02) 4920 5000 Fax: (02) 4925 3489****CROWN LANDS ACT 1989, SECTION 180**

Delegation of function under the Crown Lands Act 1989

I, Tony Kelly, M.L.C., Minister for Lands, pursuant to section 180 of the Crown Lands Act 1989 hereby delegate my function under section 137 of the Crown Lands Act 1989 to the Minister administering the National Parks and Wildlife Act 1974 for the purpose only of accepting surrender of a perpetual lease, or part thereof, that is vested in the Minister administering the National Parks and Wildlife Act 1974 pursuant to the Brigalow and Nandewar Community Conservation Area Act 2005.

TONY KELLY, M.L.C.,  
Minister for Lands

**NOWRA OFFICE**  
**5 O'Keefe Avenue (PO Box 309), Nowra NSW 2541**  
**Phone: (02) 4428 9100 Fax: (02) 4421 2172**

**PLAN OF MANAGEMENT FOR CROWN  
 FORESHORE RESERVES UNDER DIVISION 6  
 OF PART 5 OF THE CROWN LANDS ACT 1989  
 AND CROWN REGULATION 1995**

A Draft Plan of Management has been prepared for Crown foreshore Reserves at Wollongong. The Plan of Management area includes City Beach, Flagstaff Hill, Brighton Lawn, Osborne Park, North Beach, JP Galvin Park and Stuart Park.

Inspection of the draft plan is available in the following ways:

- Viewing by Wollongong City Council's website at [www.wollongong.nsw.gov.au](http://www.wollongong.nsw.gov.au)
- Visiting Wollongong City Council's Administration Building, 41 Burelli Street, Wollongong and inspecting the document at the Central Library or Council's Property Division on Level 9;
- Visiting any of the Branch Libraries of Wollongong City Council and request to inspect the document;
- Attending a public information kiosk about the draft plan to be held at –
  - North Beach on 8 September 2007 between 11 am and 1pm and
  - Belmore Basin on 22 September 2007 between 11 am and 1 pm; and
- Attending a public hearing session on 26 September 2007 at level 9 of the Council Administration Building at 3 pm or 5:30 pm.

Representations are invited from the public on the draft plan. The draft plan will be on exhibition for a period of 42 days from 3 September 2007. Submissions will be received up until 5 pm on 15 October 2007 and should be sent to The General Manager, Wollongong City Council, Locked Bag 8821, Wollongong, NSW 2500. For additional details, please contact Martha Tyndall at Wollongong City Council on (02) 4227 7549.

TONY KELLY, M.P.,  
 Minister for Lands

Description of Reserves

*Land District – Kiama; City – Wollongong*  
*Parish – Wollongong; County – Camden*

Reserve 84424 for Public Recreation  
 Reserve D580076 for Public Recreation  
 Reserve 580097 for Public Recreation  
 Reserve 40945 for Public Baths  
 Reserve 40944 for Public Baths  
 Reserve 1000703 for Public Recreation  
 Reserve 40908 for Public Recreation  
 Reserve 71482 for Public Recreation & Baths  
 Reserve 72138 for Public Recreation  
 Reserve D580060 for Public Park  
 File No.: NA07 R 13

**NOTIFICATION OF CLOSING OF PUBLIC ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed and the land comprised therein ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

TONY KELLY, M.L.C.,  
 Minister for Lands

Description

*Parish – Wandella; County – Dampier*  
*Land District – Moruya; LGA – Bega Valley*

Lot 3 in DP 1113782 at Wandella. File No. NA07 H 37.

Note: On closing, the land will remain vested in the State of New South Wales as Crown land.

**ORANGE OFFICE**  
**92 Kite Street (PO Box 2146), Orange NSW 2800**  
**Phone: (02) 6391 4300 Fax: (02) 6362 3896**

**NOTIFICATION OF CLOSING OF PUBLIC 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

*Parish – Mingelo; County – Narromine; Land District – Parkes; Shire – Parkes*

Road Closed: Lot 1 in Deposited Plan 1107362 at Peak Hill. File No.: OE05 H 276

Note: On closing Title to the land comprised in Lot 1 remains vest in the Crown as Crown Land

**WITHDRAWAL OF RESERVES FROM CONTROL OF A RURAL LANDS PROTECTION BOARD**

IN pursuance of the provisions of section 861), Rural Lands Protection Act 1998, the reserves specified hereunder are withdrawn from control of the Rural Lands Protection Board specified in the notice.

TONY KELLY, M.L.C.,  
Minister for Lands

*Rural Lands Protection District – Forbes Rural Lands Protection Board*

Parish Forbes, County Ashburnham, Part Reserve No.13185 for Travelling Stock notified 20 December 1890, comprised in Lots 7063, 7104 & 7105 in DP 750158 of 16.4 hectares.  
(Placed under control, Gazette, 23 June 1933).

Parish Forbes , County Ashburnham , Reserve No. 13189 for Camping, notified 20 December 1890, comprised in Lot 7066 DP 1020611 of about 6.79 hectares.  
(Placed under control, Gazette, 31 May 1935).

Parish Forbes, County Ashburnham, Reserve No.13181 for Travelling Stock, notified 20 December 1890, comprised in Lots 802, 792, 769, 770, 793, 700-703, 706, 708, 710, 711, 716, 718, 704, 707, 709, 712, 730, 705 in DP 750158 & lots 7067, 7068 in DP 1020612 of about 14.26 hectares.  
(Placed under control, Gazette, 31 May 1935).

Note: Reserves have been revoked and re-reserved for the purpose of future public requirements this day.

File Reference: OE 06R7/1.

**REVOCATION OF RESERVATION OF CROWN LAND**

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown land specified in Column 1 of the Schedule hereunder is revoked to the extent 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>				
Land District: Forbes	The whole being				
Local Government Area: Forbes Shire Council	<i>Lot</i>	<i>Sec.</i>	<i>DP</i>	<i>Parish</i>	<i>County</i>
Locality: Forbes	802		750158	Forbes	Ashburnham
Reserve No. 13181	792		750158	Forbes	Ashburnham
Public Purpose: Travelling Stock	769		750158	Forbes	Ashburnham
Notified: 20 December 1890	770		750158	Forbes	Ashburnham
File Reference: OE06 R 7/1	793		750158	Forbes	Ashburnham
	700		750158	Forbes	Ashburnham
	701		750158	Forbes	Ashburnham
	702		750158	Forbes	Ashburnham
	703		750158	Forbes	Ashburnham

706	750158	Forbes	Ashburnham
708	750158	Forbes	Ashburnham
710	750158	Forbes	Ashburnham
711	750158	Forbes	Ashburnham
716	750158	Forbes	Ashburnham
718	750158	Forbes	Ashburnham
7067	1020612	Forbes	Ashburnham
7068	1020612	Forbes	Ashburnham
704	750158	Forbes	Ashburnham
707	750158	Forbes	Ashburnham
709	750158	Forbes	Ashburnham
712	750158	Forbes	Ashburnham
730	750158	Forbes	Ashburnham
705	750158	Forbes	Ashburnham

of an area of 14.26ha

Note: Added to Reserve 750158 for future public requirements, this day.

### REVOCATION OF RESERVATION OF CROWN LAND

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown land specified in Column 1 of the Schedule hereunder is revoked to the extent specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

#### SCHEDULE

##### Column 1

Land District: Forbes  
Local Government Area: Forbes Shire Council  
Locality: Forbes  
Reserve No. 13185  
Public Purpose: Travelling Stock  
Notified: 20 December 1890

Lot	Sec.	DP	Parish	County
7058		1070116 #	Forbes	Ashburnham
7059		1070116 #	Forbes	Ashburnham
7061		1020609	Forbes	Ashburnham
7063		750158 #	Forbes	Ashburnham
7103		750158 #	Forbes	Ashburnham
7104		750158 #	Forbes	Ashburnham
7105		750158 #	Forbes	Ashburnham
1717		729074	Forbes	Ashburnham
7060		1070117	Forbes	Ashburnham

File Reference: OE06 R 7/1

Note: Added to Reserve 750158 for future public requirements, this day.

##### Column 2

The part being  
*Lot Sec. DP Parish County*  
7063 750158 # Forbes Ashburnham  
7105 750158 # Forbes Ashburnham  
7104 750158 # Forbes Ashburnham  
of an area of 16.4ha

### REVOCATION OF RESERVATION OF CROWN LAND

PURSUANT to section 90 of the Crown Lands Act 1989, the reservation of Crown land specified in Column 1 of the Schedule hereunder is revoked to the extent specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

#### SCHEDULE

##### Column 1

Land District: Forbes  
Local Government Area: Forbes Shire Council  
Locality: Forbes  
Reserve No. 13189  
Public Purpose: Camping  
Notified: 20 December 1890  
File Reference: OE06 R 7/1

##### Column 2

The whole being  
Lot 7066, DP 1020611, Parish Forbes, County Ashburnham  
of an area of 6.79ha

Note: Added to Reserve 750158 for future public requirements, this day.

**ADDITION TO RESERVED CROWN LAND**

Pursuant to section 88 of the Crown Lands Act 1989, the Crown land specified in Column 1 of the Schedule hereunder is added to the reserved land specified opposite thereto in Column 2 of the Schedule.

TONY KELLY, M.L.C.,  
Minister for Lands

**SCHEDULE***Column 1*

Land District: Forbes  
Local Government Area: Forbes Shire Council  
Locality: Forbes, Ashburnham (Parish, County)

<i>Lot</i>	<i>Sec.</i>	<i>DP</i>	<i>Parish</i>	<i>County</i>
769		750158	Forbes	Ashburnham
770		750158	Forbes	Ashburnham
793		750158	Forbes	Ashburnham
700		750158	Forbes	Ashburnham
701		750158	Forbes	Ashburnham
702		750158	Forbes	Ashburnham
7063		750158 #	Forbes	Ashburnham
7104		750158 #	Forbes	Ashburnham
7105		750158 #	Forbes	Ashburnham
7066		1020611	Forbes	Ashburnham
802		750158	Forbes	Ashburnham
792		750158	Forbes	Ashburnham
703		750158	Forbes	Ashburnham
706		750158	Forbes	Ashburnham
708		750158	Forbes	Ashburnham
710		750158	Forbes	Ashburnham
711		750158	Forbes	Ashburnham
716		750158	Forbes	Ashburnham
718		750158	Forbes	Ashburnham
704		750158	Forbes	Ashburnham
707		750158	Forbes	Ashburnham
709		750158	Forbes	Ashburnham
712		750158	Forbes	Ashburnham
730		750158	Forbes	Ashburnham
705		750158	Forbes	Ashburnham
7067		1020612	Forbes	Ashburnham
7068		1020612	Forbes	Ashburnham

Area: 37.45ha

File Reference: OE06 R 7/1

Disclaimer: # Please note that the above Lot numbers marked # are for Departmental use only.

*Column 2*

Reserve No. 750158  
Public Purpose: Future Public Requirements  
Notified: 29 June 2007  
New Area: num hectares

<i>Lot</i>	<i>Sec.</i>	<i>DP</i>	<i>Parish</i>	<i>County</i>
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**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**

**ASSIGNMENT OF NAME TO A RESERVE TRUST****SCHEDULE**

PURSUANT to paragraph 4 (3) of Schedule 8 of the Crown Lands Act 1989 the name specified in Column 1 of the Schedule is assigned to the reserve trust constituted as trustee for the reserve specified in Column 2 of the Schedule.

TONY KELLY, MLC.,  
Minister for Lands

*Column 1*  
Northbridge War Memorial  
(R500279) Reserve Trust

*Column 2*  
Dedication No. 500279 at  
Northbridge dedicated  
for the purpose of War  
Memorial on 20 October  
1950.  
File No.: MN80 R 332

**TAREE OFFICE**

**98 Victoria Street (PO Box 440), Taree NSW 2430**  
**Phone: (02) 6591 3500 Fax: (02) 6552 2816**

**ERRATUM**

THE notice appearing in the *Government Gazette* No. 103 on 24 August 2007, folio 5936, under the heading of 'Notification of Closing of Public Road' referring to land within the Land District of Port Macquarie, is hereby cancelled.

TONY KELLY, M.L.C.,  
Minister for Lands

**WAGGA WAGGA OFFICE**

**Corner Johnston and Tarcutta Streets (PO Box 60), Wagga Wagga NSW 2650**  
**Phone: (02) 6937 2700 Fax: (02) 6921 1851**

**NOTIFICATION OF CLOSING OF A ROAD**

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed, the road 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

*Parish – Ournie; County – Selwyn*  
*Land District – Tumbarumba; Shire – Tumbarumba*

Road Closed: Lot 1 in DP 1114558 at Ournie.  
File No.: WA05 H 332

Note: On closing, the land within Lot 1 in DP 1114558 remains vested in the State of New South Wales as Crown land.

**CORRECTION OF DEFECTIVE INSTRUMENT**

IN the *Government Gazette* dated 24 August 2007, under the heading "Appointment of Corporation to manage Reserve Trust" relating to the Appointment of Lands Administration Ministerial Corporation to Silvalite Reserve No. 97572 for Environmental Protection Plantation, please delete this notice. – WA99 R 13.

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# Department of Planning

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New South Wales

## **Bega Valley Local Environmental Plan 2002 (Amendment No 3)**

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*. (WOL2000610/S69)

FRANK SARTOR, M.P.,  
Minister for Planning

Clause 1            Bega Valley Local Environmental Plan 2002 (Amendment No 3)

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## **Bega Valley Local Environmental Plan 2002 (Amendment No 3)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Bega Valley Local Environmental Plan 2002 (Amendment No 3)*.

### **2 Aim of plan**

The aim of this plan is to allow the use of the existing recycling and waste depots to continue until 14 June 2012.

### **3 Land to which plan applies**

This plan applies to Lot 55, DP 750194, (and adjacent Crown land as shown diagonally hatched on the zoning map), Sapphire Coast Drive, Merimbula, Lot 312, DP 728092, Tathra–Bermagui Road, Bermagui and Lot 1, DP 507706, Princes Highway, Eden.

### **4 Amendment of Bega Valley Local Environmental Plan 2002**

*Bega Valley Local Environmental Plan 2002* is amended by omitting “5 years” from the matter under the heading “Additional development allowed” adjacent to the matter beginning “Lot 55, DP 750194” under the heading “Land” in Schedule 4 and by inserting instead “10 years”.





New South Wales

## **Hawkesbury Local Environmental Plan 1989 (Amendment No 151)**

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*. (S06/00139/S69)

FRANK SARTOR, M.P.,  
Minister for Planning

Clause 1            Hawkesbury Local Environmental Plan 1989 (Amendment No 151)

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## **Hawkesbury Local Environmental Plan 1989 (Amendment No 151)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Hawkesbury Local Environmental Plan 1989 (Amendment No 151)*.

### **2 Aims of plan**

This plan aims to reclassify the land to which this plan applies from community land to operational land within the meaning of the *Local Government Act 1993*.

### **3 Land to which plan applies**

This plan applies to land situated in the City of Hawkesbury, being Lot 22, DP 829589, No 496 Wilberforce Road, Wilberforce.

### **4 Amendment of Hawkesbury Local Environmental Plan 1989**

*Hawkesbury Local Environmental Plan 1989* is amended by inserting in alphabetical order of locality in Part 3 of Schedule 5 under the headings “**Locality**” and “**Description**”, respectively, the following words:

#### **Wilberforce**

No 496 Wilberforce Road

Lot 22, DP 829589



New South Wales

## **Parkes Local Environmental Plan 1990 (Amendment No 6)**

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*. (D06/00006/S69)

FRANK SARTOR, M.P.,  
Minister for Planning

Clause 1            Parkes Local Environmental Plan 1990 (Amendment No 6)

---

## **Parkes Local Environmental Plan 1990 (Amendment No 6)**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of plan**

This plan is *Parkes Local Environmental Plan 1990 (Amendment No 6)*.

### **2 Aims of plan**

This plan aims to rezone the land to which this plan applies from Zone No 5 (b) (Special Uses (Railways) Zone) to Zone No 2 (v) (Urban and Village Zone) under *Parkes Local Environmental Plan 1990*.

### **3 Land to which plan applies**

This plan applies to land situated in the local government area of Parkes, being Lot 2, DP 1007651, May Street, Parkes, as shown edged heavy black and lettered "2 (v)" on the map marked "Parkes Local Environmental Plan 1990 (Amendment No 6)" deposited in the office of Parkes Shire Council.

### **4 Amendment of Parkes Local Environmental Plan 1990**

*Parkes Local Environmental Plan 1990* is amended by inserting in appropriate order in the definition of *the map* in clause 5 (1) the following words:

Parkes Local Environmental Plan 1990 (Amendment No 6)



New South Wales

## **Singleton Local Environmental Plan 1996 (Amendment No 57)**

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*. (N07/00095-1)

FRANK SARTOR, M.P.,  
Minister for Planning

Clause 1 Singleton Local Environmental Plan 1996 (Amendment No 57)

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## Singleton Local Environmental Plan 1996 (Amendment No 57)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *Singleton Local Environmental Plan 1996 (Amendment No 57)*.

### 2 Aims of plan

This plan aims to amend *Singleton Local Environmental Plan 1996* to correct:

- (a) the property descriptions in respect of the “Huntergreen Urban Release Area” and “Bridgman Ridge Urban Release Area”, and
- (b) an anomaly in the colouring of part of the Legend on the *Lot Size Map*.

### 3 Land to which plan applies

- (1) With respect to the aim referred to in clause 2 (a), this plan applies to land in Wattle Ponds and Fern Gully, known as the “Huntergreen Urban Release Area”, being Lot 41, DP 592143, Lot 2, DP 622782, Lot 12, DP 733261, Lots 159, 162, 163 and 165, DP 752455 and Lot 1, DP 815280, and the “Bridgman Ridge Urban Release Area”, being Part Lot 196, DP 752455, Lot 3, DP 1091619, Part Lot 336, DP 1092882 and Part Lot 61, DP 1097141, as shown edged heavy black on sheet 3 of the map marked “Singleton Local Environmental Plan 1996 (Amendment No 40)” deposited in the office of Singleton Council.
- (2) With respect to the aim referred to in clause 2 (b), this plan applies to certain land in Gowrie, Wattle Ponds and Fern Gully, as shown distinctively coloured, edged heavy black and lettered on the map marked “Singleton Local Environmental Plan 1996 (Amendment No 57)—Lot Size Map” deposited in the office of Singleton Council.

### 4 Amendment of Singleton Local Environmental Plan 1996

*Singleton Local Environmental Plan 1996* is amended as set out in Schedule 1.

Singleton Local Environmental Plan 1996 (Amendment No 57)

Amendments

Schedule 1

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## Schedule 1 Amendments

(Clause 4)

**[1] Clause 9 How are terms defined in this plan?**

Insert in appropriate order in the definition of *Lot Size Map* in clause 9 (1):

Singleton Local Environmental Plan 1997 (Amendment No 57)—Lot Size Map

**[2] Clause 9 (1), definition of “the map”**

Insert “—Sheets 2 and 3” after “Singleton Local Environmental Plan 1996 (Amendment No 40)”.

**[3] Clause 14A What provisions apply generally to development in the Huntergreen, Bridgman Ridge and Gowrie Links Urban Release Areas?**

Omit clause 14A (1) (b). Insert instead:

- (b) the “Huntergreen Urban Release Area”, being Lot 41, DP 592143, Lot 2, DP 622782, Lot 12, DP 733261, Lots 159, 162, 163 and 165, DP 752455 and Lot 1, DP 815280, and the “Bridgman Ridge Urban Release Area”, being Part Lot 196, DP 752455, Lot 3, DP 1091619, Part Lot 336, DP 1092882 and Part Lot 61, DP 1097141, as shown edged heavy black on sheet 3 of that map.

## Department of Primary Industries

### COAL MINE HEALTH AND SAFETY ACT 2002

#### Instrument of Appointment

I, ALAN COUTTS, Deputy Director-General Mineral Resources, pursuant to section 148 of the Coal Mine Health and Safety Act 2002 Act (“the Act”) and with the delegated authority of the Minister for Mineral Resources and the Director-General of the NSW Department of Primary Industries pursuant to sections 212 and 214 of the Act, hereby appoint Paul Thomas HEALEY, an inspector appointed under the Act, to exercise the functions of the Chief Inspector under the act, from 28 August 2007 to 24 September 2007.

Dated this 22nd day of August 2007.

ALAN COUTTS,  
Deputy Director-General Mineral Resources,  
NSW Department of Primary Industries

### EXOTIC DISEASES OF ANIMALS ACT 1991

#### Appointment of Inspectors

I, BRUCE MORGAN CHRISTIE, Chief Veterinary Officer, pursuant to section 68 of the Exotic Disease of Animal Act 1991 (“the Act”), hereby:

1. revoke all instruments of Appointment of Inspectors under the Act, dated 25 August 2007 and 28 August 2007; and
2. appoint the persons, and persons included in the classes of persons, described in the schedule below as Inspectors for the purpose of the exercise and performance of the powers and functions of an Inspector under the Act, from date of appointment until 1 October 2007.

#### SCHEDULE

1. Persons appointed as Authorised Persons by the Centennial Park and Moore Part Trust (known as Centennial Parklands Rangers);
2. Members of the Australian Veterinary Reserve;
3. Fisheries Officers appointed under the *Fisheries Management Act 1994 (NSW)*;
4. Letitia Jayne Nicolle; and
5. Simon John Charles Oliver.

Dated this 29<sup>th</sup> day of August 2007.

BRUCE MORGAN CHRISTIE,  
Chief Veterinary Officer

### FISHERIES MANAGEMENT ACT 1994

#### Section 8 Notification – Fishing Closure Belmore River

I, IAN MACDONALD, Minister for Primary Industries, pursuant to section 8 of the Fisheries Management Act 1994, do by this notification prohibit the taking of all species of fish by the class of persons specified in Column 1 of the Schedule to this notification, by the methods of fishing specified in Column 2 of the Schedule, from the waters described in Column 3 of the Schedule.

### SCHEDULE

<i>Column 1</i> Class of Persons	<i>Column 2</i> Methods of fishing	<i>Column 3</i> Waters
All endorsement holders in the Estuary General Fishery.	All methods.	The whole of the waters of that part of the Belmore River and its creeks, tributaries and inlets, upstream from the road bridge at Gladstone to its source (being waters that are part of the estuarine system of the Macleay River).
All recreational fishers.	All methods with the exception of a single rod and line or handline, with not more than two hooks attached to the line.	

In this fishing closure:

“Estuary General Fishery” means the share management fishery of that name, as described in Schedule 1 to the Fisheries Management Act 1994.

The provisions of this fishing closure in respect of endorsement holders in the Estuary General Fishery have effect despite any provision in the Fisheries Management (Estuary General Share Management Plan) Regulation 2006.

This fishing closure is effective for a period of five (5) years commencing on 30 August 2007 unless sooner amended or revoked.

Dated this 24th day of August 2007.

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

### FORESTRY ACT 1916

#### Land Acquisition (Just Terms Compensation) Act 1991

#### Notice of Compulsory Acquisition of Land

THE Minister for Primary Industries declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below exclusive of all mines and deposits of minerals therein contained being part of the land dedicated as Cowarra State Forest No. 59 is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991, for the purposes of giving effect to an Agreement entered into pursuant to section 16A of the Forestry Act 1916.

Dated at Sydney this twenty-second day of August 2007.

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



## SCHEDULE

All that piece or parcel of land having an area of 19.73 hectares or thereabouts situate in the Port Macquarie-Hastings Council Area, Parish of Burrawan, County of Macquarie, being Lot 102 in Deposited Plan 1091658 and being part of Cowarra State Forest No. 59, No. 7 Extension dedicated 14 April 1989. (4509)

## STOCK DISEASES ACT 1923

Notification No. 1805-OJD

Declaration of a Protected Area, a Protected (Control) Area as regards Johne's disease in sheep (known as ovine Johne's disease or OJD)

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

- A. pursuant to section 3 (2) (a) and 11A of the Stock Diseases Act 1923 ('the Act'), revoke Notification No. 1788-OJD published in New South Wales Government Gazette No. 111 of 1 July 2004 at pages 5600-5602; and
- B. pursuant to section 11A of the Act, declare the lands described in the Schedule to be a Protected Area (to be known as the 'OJD Exclusion Area'), and all other lands in New South Wales to be a Protected (Control) Area (to be known as the 'OJD Management Area'), as regards Johne's disease in sheep (known as ovine Johne's disease or OJD); and
- C. pursuant to section 11A of the Act prohibit the bringing into the Protected Area of any sheep from any part of the Protected (Control) Area unless:
  - (a) the sheep are accompanied by a completed Health Statement for Sheep that is given to the person to whom the sheep are delivered; or
  - (b) the sheep are 'exempt sheep'; or
  - (c) the sheep originate from the Protected Area and are transported in a vehicle through the Protected (Control) Area without unloading, and back into the Protected Area; or
  - (d) the sheep are moved in accordance with:
    - a written permit issued by an inspector under section 7 (6) of the Act, or
    - an order given by an inspector under section 8 (1) (b) of the Act.

This Notification commences on the date of gazettal.

In this Notification:

completed Health Statement for Sheep means:

- an original numbered document sourced from a booklet titled 'NSW Animal Health Statement Sheep 1st Edition February 2004' or from a subsequent edition as approved by the Director, Animal and Plant Biosecurity, NSW Department of Primary Industries, and completed according to the instructions on the Statement or source booklet, or
- an original numbered document from a booklet titled 'NSW Sheep Health Statement 2nd Edition March 2006', or from a subsequent edition as approved by the Director, Animal and Plant Biosecurity, NSW Department of Primary Industries, and completed according to the instructions on the Statement or source booklet, or

- a document approved from time to time by the Director, Animal and Plant Biosecurity, NSW Department of Primary Industries, and completed according to the instructions on the Statement or source booklet, completed by the owner and/or person responsible for the husbandry of the sheep.

**Director, Animal and Plant Biosecurity**, means the Director, Animal and Plant Biosecurity, of NSW Department of Primary Industries.

**Executive Director, Biosecurity, Compliance and Mine Safety**, means the Executive Director, Biosecurity, Compliance and Mine Safety, of NSW Department of Primary Industries.

**exempt sheep** means:

- sheep being moved to slaughter, directly or via a slaughter-only sale;
- lambs accompanied by a National Vendor Declaration on which section 7 has been filled in with the words "PRIME LAMBS FOR SLAUGHTER ONLY"; and
- sheep being sent or delivered to a Health Statement for Sheep exempt sale approved by a Senior Regional Animal Health Manager no later than 48 hours before the sale.

**'OJD Exclusion Area'** means the part of New South Wales declared by Notification from time to time to be a Protected Area as regards Johne's disease in sheep.

**'OJD Management Area'** means the part of New South Wales declared by Notification from time to time to be a Protected (Control) Area as regards Johne's disease in sheep.

**sale** includes, sell, offer for sale, assist in selling and attempt to sell.

**Senior Regional Animal Health Manager** means Senior Regional Animal Health Manager, of NSW Department of Primary Industries.

## SCHEDULE

## Protected Area

The whole of the lands contained in the Armidale, Balranald, Bourke, Brewarrina, Broken Hill, Cobar, Condobolin, Coonabarabran, Coonamble, Hay, Hillston, Milparinka, Moree, Narrabri, Northern New England, Northern Slopes, Nyngan, Walgett, Wanaaring, Wentworth, and Wilcannia Rural Lands Protection Districts.

## Notes

Contravening a provision of this Notification is an offence under section 20H(1)(a) of the Act. The maximum penalty for such an offence is \$11,000.

A map of the 'OJD Exclusion Area' and the 'OJD Management Area' as regards Johne's disease in sheep, is published on the NSW Department of Primary Industries' website at [www.ojdinfo.nsw.gov.au](http://www.ojdinfo.nsw.gov.au)

The course of action to be taken by the owner or occupier of the land in the 'OJD Exclusion Area', and in the 'OJD Management Area', and by the owner of the sheep, the owner's agent, or by any other person in charge of the sheep in each of those areas shall be as ordered by an inspector.

NSW Health Statements for Sheep are sourced from booklets published by NSW Department of Primary Industries

1805-OJD is the NSW Department of Primary Industries' reference.

For further information, contact the NSW Department of Primary Industries on (02) 6391 3691.

Dated this 14th day of August 2007.

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

### STOCK DISEASES ACT 1923

Proclamation No. 564-OJD

Proclamation to restrict the importation or introduction into New South Wales of sheep on account of Johne's disease

Her Excellency Professor MARIE BASHIR, A.C., C.V.O.,  
Governor

I, Professor MARIE BASHIR, A.C., C.V.O., Governor of the State of New South Wales, with the advice of the Executive Council:

- A. pursuant to sections 3 (2) (a) and 11B of the Stock Diseases Act 1923 ('the Act'), revoke Proclamation No. 551-OJD published in *New South Wales Government Gazette* No. 111 of 1 July 2004 at pages 5597-5599, and any Proclamation revived as a result of its revocation; and
- B. pursuant to section 11B of the Act, and being of the opinion that certain sheep might be infected with, or might carry or spread, Johne's disease (in the form commonly known as ovine Johne's disease or OJD), restrict the importation or introduction into the State of sheep as set out in the Schedule.

#### SCHEDULE

Bringing of sheep into the OJD Exclusion Area of New South Wales

- A person must not bring or cause or permit sheep to be brought into the part of New South Wales known as the 'OJD Exclusion Area' unless:
  - the sheep are accompanied by a completed Health Statement for Sheep that is given to the person to whom the sheep are delivered; or
  - the sheep are exempt sheep; or
  - the sheep are moved in accordance with:
    - a written permit issued by an inspector under section 7 (6) of the Act, or
    - an order given by an inspector under section 8 (l) (b) of the Act

in circumstances that are of a kind approved from time to time by the Executive Director, Biosecurity, Compliance and Mine Safety or Director, Animal and Plant Biosecurity.

Bringing of sheep for sale or agistment into the OJD Management Area of New South Wales

- A person must not bring or cause or permit sheep to be brought into the part of New South Wales known

as the 'OJD Management Area' for sale or agistment unless:

- the sheep are accompanied by a completed Health Statement for Sheep that is given to the person to whom the sheep are delivered; or
- the sheep are for sale and are exempt sheep; or
- the sheep are moved in accordance with:
  - a written permit issued by an inspector under section 7 (6) of the Act, or
  - an order given by an inspector under section 8 (l) (b) of the Act

in circumstances that are of a kind approved from time to time by the Executive Director, Biosecurity, Compliance and Mine Safety or Director, Animal and Plant Biosecurity.

#### Definitions

In this Proclamation:

completed Health Statement for Sheep means:

- an original numbered document sourced from a booklet titled 'NSW Animal Health Statement Sheep 1st Edition February 2004' or from a subsequent edition as approved by the Director, Animal and Plant Biosecurity, NSW Department of Primary Industries, and completed according to the instructions on the Statement or source booklet, or
- an original numbered document from a booklet titled 'NSW Sheep Health Statement 2nd Edition March 2006', or from a subsequent edition as approved by the Director, Animal and Plant Biosecurity, NSW Department of Primary Industries, and completed according to the instructions on the Statement or source booklet, or
- a document approved from time to time by the Director, Animal and Plant Biosecurity, NSW Department of Primary Industries, and completed according to the instructions on the Statement or source booklet, completed by the owner and/or person responsible for the husbandry of the sheep.

**Director, Animal and Plant Biosecurity**, means the Director, Animal and Plant Biosecurity, of NSW Department of Primary Industries.

**Executive Director, Biosecurity, Compliance and Mine Safety**, means the Executive Director, Biosecurity, Compliance and Mine Safety, of NSW Department of Primary Industries.

**exempt sheep** means:

- sheep being moved to slaughter, directly or via a slaughter-only sale;
- lambs accompanied by a National Vendor Declaration on which section 7 has been filled in with the words 'PRIME LAMBS FOR SLAUGHTER ONLY'; and
- sheep being sent or delivered to a Health Statement for Sheep exempt sale approved by a Senior Regional Animal Health Manager no later than 48 hours before the sale.

**'OJD Exclusion Area'** means the part of New South Wales declared by Notification from time to time to be a Protected Area as regards Johne's disease in sheep.

**'OJD Management Area'** means the part of New South Wales declared by Notification from time to time to be a Protected (Control) Area as regards Johne's disease in sheep.

**sale** includes, sell, offer for sale, assist in selling and attempt to sell.

**Senior Regional Animal Health Manager** means Senior Regional Animal Health Manager, of NSW Department of Primary Industries.

#### Notes

Introducing sheep into New South Wales in contravention of this Proclamation is an offence under section 20 of the Act. The maximum penalty for such an offence is ordinarily \$11,000, but is \$22,000 if the sheep are diseased, and \$110,000 and 6 months imprisonment if the sheep are diseased and other sheep in the State become diseased as a result.

The doing of other things in contravention of this Proclamation is an offence under section 20H (1) (a) of the Act. The maximum penalty for such an offence is \$11,000.

NSW Health Statements for Sheep are sourced from booklets published by NSW Department of Primary Industries.

A map of the 'OJD Exclusion Area' and the 'OJD Management Area' as regards Johne's disease in sheep, is published on the NSW Department of Primary Industries' website at [www.ojdinfo.nsw.gov.au](http://www.ojdinfo.nsw.gov.au).

564-OJD is the NSW Department of Primary Industries' reference.

For further information, contact the NSW Department of Primary Industries on (02) 6391 3691.

Signed and sealed at Sydney this 22nd day of August 2007.

By Her Excellency's Command,

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

GOD SAVE THE QUEEN!

### STOCK DISEASES REGULATION 2004

Order pursuant to clause 26

Exemptions from the requirement for cattle to be identified with a permanent identifier or for information to be provided to the authorised administrator of the permanent identification register

I, BARRY DESMOND BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to clause 26 of the Stock Diseases Regulation 2004 ("the Regulation"):

1. revoke the Order published in the *NSW Government Gazette* No. 166 on 23 December 2005 at pages 11659-11660, and any order revived as a result of that revocation; and
2. order that the person or class of persons specified in the Schedule below are exempt from the provisions specified in that Schedule.

This Order commences on 1 September 2007.

Dated this 27th day of August 2007.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

#### SCHEDULE

##### Definitions

"District veterinarian or ranger" means a person employed in either capacity in accordance with section 42 of the Rural Lands Protection Act 1998 and who is currently working for a Rural Lands Protection Board.

#### 1. (*Unsuitable facilities*)

The owner or person in charge of cattle is exempt from clause 22 (3) of the Regulation where the cattle is:

- (i) located on a property where it is not practical to attach a permanent identifier, and
- (ii) moved directly from the property to another place in accordance with the approval of a district veterinarian or ranger, and
- (iii) identified after arrival at the other place with a permanent identifier in accordance with clause 21 before the stock is sold or slaughtered, or within 2 days of arrival, or before the stock leaves that place, whichever is the sooner.

OR

#### 2. The owner or person in charge of cattle is exempt from clauses 22 (3) and 25B of the Regulation where the cattle is:

##### 2.1 (*Short term local movements*)

- (i) moved to a contiguous property and returned to the original property within 2 days;

OR

##### 2.2 (*Animal exhibits*)

- (i) owned by a mobile exhibition or animal display establishment that is licensed under the Exhibited Animals Protection Act 1986, and
- (ii) not moved to a saleyard or abattoir, and
- (iii) not sold, except to another licensed mobile exhibition or animal display establishment;

OR

##### 2.3 (*Emergencies*)

- (i) located on a property that is affected by an emergency that necessitates the urgent movement of stock from the property, and
- (ii) identified after arrival at the other place with a permanent identifier in accordance with clause 21 before the stock is sold or slaughtered, or before the stock leaves that place unless the stock is returned directly to the previous property.

#### 3. (*Knackeries*)

The owner or person in charge of an abattoir is exempt from clause 25A of the Regulation where:

- (i) cattle is sent to an abattoir that is licensed as a knackery in accordance with the Food Act 2003, and

- (ii) the relevant identification particulars of the cattle are provided by the owner or person in charge of the abattoir to the Department of Primary Industries within 14 days of the receipt of the cattle.

4. (*Large or difficult animals*)

A person is exempt from clauses 22 (3), 24 and 25A of the Regulation where the cattle is:

- (i) of such a size or disposition that it is impractical or unsafe to attach a permanent identifier, and
- (ii) identified with a tail tag that is printed with the property identification code of the last property on which the animal was kept, or a special identifier that is a tail tag, and
- (iii) moved in accordance with the approval of a district veterinarian or ranger to an abattoir, either directly or via a saleyard, where the cattle is slaughtered.

5. (*Stock in transit*)

The owner or person in charge of cattle is exempt from clause 25B of the Regulation where the cattle is:

- (i) moved directly between different parts of the same property across or along a travelling stock reserve, public road or stock watering place within 7 days, or
- (ii) moved from a travelling stock reserve or stock watering place to a contiguous travelling stock reserve or stock watering place and back again within 7 days, or
- (iii) moved in accordance with clause 1 of this Schedule and returned to the previous property within 2 days, or
- (iv) offloaded briefly while transferring stock from one vehicle to another vehicle,

AND

- (v) moved in accordance with the provisions of the Rural Lands Protection Act 1998, either
  - (a) in a vehicle and accompanied by a transported stock statement, or
  - (b) by walking in accordance with a stock permit, or
  - (c) as otherwise authorised under that Act.

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**STOCK DISEASES REGULATION 2004**

Order pursuant to Clause 14

Exemptions from the requirement for cattle to be identified for transaction purposes

I, BARRY DESMOND BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to clause 14 (2) of the Stock Diseases Regulation 2004 ("the Regulation"):

1. revoke the Order published in the *NSW Government Gazette* No. 92 on 14 July 2006 at page 5498, and any order revived as a result of that revocation; and
2. approve that Division 2 of Part 3 of the Regulation does not apply in relation to any cattle.

Dated this 27th day of August 2007.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

**STOCK DISEASES REGULATION 2004**

Order pursuant to Clause 16

Exemptions from the requirement for stock to be identified for transaction purposes

I, BARRY DESMOND BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to clause 16 of the Stock Diseases Regulation 2004 ("the Regulation"), revoke the Order published in the *NSW Government Gazette* No. 166 on 23 December 2005 at page 11654, and any order revived as a result of that revocation.

Dated this 27th day of August 2007.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

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**STOCK DISEASES REGULATION 2004**

Order Under Clauses 42 and 42A

Reuse of Approved Identifiers

I, BARRY DESMOND BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to clause 42 and 42A of the Stock Diseases Regulation 2004 ("the Regulation"), approve the sale, supply and attachment of an approved identifier that has previously been attached to any stock in the circumstances specified in the Schedule below.

**Definitions**

"Standard" means the permanent identification device standard for cattle as approved from time to time by the Standards Committee.

"Standards Committee" means the Meat and Livestock Australia NLIS Standards Committee.

**SCHEDULE**

1. A person may sell, supply and attach an approved identifier that has previously been attached to any stock only in accordance with the Standard.

Dated this 23rd day of August 2007.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

Note: For further information regarding this matter please contact – NSW Department of Primary Industries NLIS HELPLINE on 1300 720 405.

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**STOCK DISEASES REGULATION 2004**

Order Under Clause 43

Manner of Dealing with Approved Identifiers  
Attached to Slaughtered Stock

I, BARRY DESMOND BUFFIER, Director-General of the NSW Department of Primary Industries, pursuant to clause 43 of the Stock Diseases Regulation 2004 ("the Regulation"):

- a. revoke the order pursuant to clause 43 made by me and published in the *New South Wales Government Gazette* No. 111 of 1 July 2004 on page 5586, and any order revived as a result of this revocation, and



- b. specify that the owner or person in charge of an abattoir must deal with an approved identifier that is attached to any stock that is slaughtered at that abattoir in the manner specified in the Schedule below.

#### Definitions

“Standard” means the permanent identification device standard for cattle as approved from time to time by the Standards Committee.

“Standards Committee” means the Meat and Livestock Australia NLIS Standards Committee.

“approved organisation” means an organisation which has received approval from the Standards Committee to remanufacture approved identifiers.

#### SCHEDULE

1. Disposal within 28 days of slaughter:
  - a. by deep burial, or
  - b. by destruction by heat or rendering, or
  - c. at a waste management facility that is authorised under State legislation to take solid waste;

OR

2. Returned within 28 days of slaughter directly to an approved organisation.

Dated this 23rd day of August 2007.

B. D. BUFFIER,  
Director-General,  
NSW Department of Primary Industries

Note: For further information regarding this matter please contact – NSW Department of Primary Industries NLIS HELPLINE on 1300 720 405.

#### MINERAL RESOURCES

NOTICE is given that the following applications have been received:

##### EXPLORATION LICENCE APPLICATIONS

(07-355)

No. 3253, GOLDEN CROSS OPERATIONS PTY. LTD. (ACN 050 212 827), area of 22 units, for Group 1, dated 10 August 2007. (Cobar Mining Division).

(07-356)

No. 3254, GOLDEN CROSS OPERATIONS PTY. LTD. (ACN 050 212 827), area of 61 units, for Group 1, dated 10 August 2007. (Cobar Mining Division).

(07-357)

No. 3255, GOLDEN CROSS OPERATIONS PTY. LTD. (ACN 050 212 827), area of 82 units, for Group 1, dated 10 August 2007. (Cobar Mining Division).

(07-376)

No. 3273, GOLDEN CROSS OPERATIONS PTY. LTD. (ACN 050 212 827), area of 29 units, for Group 1, dated 22 August 2007. (Wagga Wagga Mining Division).

(07-377)

No. 3274, BEMAX RESOURCES LIMITED (ACN 009 247 858), area of 675 units, for Group 10, dated 22 August 2007. (Broken Hill Mining Division).

(07-378)

No. 3275, HILL END GOLD LIMITED (ACN 072 692 365), area of 150 units, for Group 1, dated 23 August 2007. (Orange Mining Division).

(07-379)

No. 3276, HILL END GOLD LIMITED (ACN 072 692 365), area of 106 units, for Group 1, dated 23 August 2007. (Orange Mining Division).

(07-380)

No. 3277, RIDGE EXPLORATION PTY LTD (ACN 127 215 132), area of 29 units, for Group 1, dated 24 August 2007. (Inverell Mining Division).

(07-381)

No. 3278, GOLD AND COPPER RESOURCES PTY LIMITED (ACN 124 534 863), area of 100 units, for Group 1, dated 24 August 2007. (Orange Mining Division).

(07-382)

No. 3279, GOLD AND COPPER RESOURCES PTY LIMITED (ACN 124 534 863), area of 60 units, for Group 1, dated 24 August 2007. (Orange Mining Division).

(07-383)

No. 3280, GOLD AND COPPER RESOURCES PTY LIMITED (ACN 124 534 863), area of 26 units, for Group 1, dated 24 August 2007. (Orange Mining Division).

(07-384)

No. 3281, GOLD AND COPPER RESOURCES PTY LIMITED (ACN 124 534 863), area of 8 units, for Group 1, dated 24 August 2007. (Orange Mining Division).

(07-385)

No. 3282, PANGAEA MINERALS PTY LIMITED (ACN 120 631 316), area of 48 units, for Group 6, dated 27 August 2007. (Orange Mining Division).

(07-386)

No. 3283, GOLD AND COPPER RESOURCES PTY LIMITED (ACN 124 534 863), area of 23 units, for Group 1, dated 24 August 2007. (Orange Mining Division).

(07-387)

No. 3284, GOLD AND COPPER RESOURCES PTY LIMITED (ACN 124 534 863), area of 66 units, for Group 1, dated 24 August 2007. (Orange Mining Division).

(07-388)

No. 3285, EDWIN GEORGE ROOTES AND JOHN T NEMISH, area of 60 units, for Group 1, dated 27 August 2007. (Orange Mining Division).

(07-390)

No. 3287, FOUR POINTS EXPLORATION LIMITED (ACN 101 168 343), area of 80 units, for Group 1, dated 27 August 2007. (Orange Mining Division).

(07-391)

No. 3288, FOUR POINTS EXPLORATION LIMITED (ACN 101 168 343), area of 327 units, for Group 1, dated 27 August 2007. (Cobar Mining Division).

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications have been received:

**PETROLEUM EXPLORATION LICENCE APPLICATIONS**

(07-425)

No. 83, GUNNEDAH GAS PTY LTD (ACN 115 880 772), area of 14 blocks, dated 21 May 2007. (Clarence-Moreton Basin).

(07-429)

No. 84, TITO TRAPUZZANO, area of 1 block, dated 22 May 2007. (Clarence-Moreton Basin).

(07-430)

No. 85, TITO TRAPUZZANO, area of 4 blocks, dated 22 May 2007. (Clarence-Moreton Basin).

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications have been received:

**PETROLEUM SPECIAL PROSPECTING AUTHORITY APPLICATIONS**

(07-426)

No. 24, GUNNEDAH GAS PTY LTD (ACN 115 880 772), area of 1 block, dated 21 May 2007. (Clarence-Moreton Basin).

(07-427)

No. 25, GUNNEDAH GAS PTY LTD (ACN 115 880 772), area of 1 block, dated 21 May 2007. (Clarence-Moreton Basin).

(07-428)

No. 26, GUNNEDAH GAS PTY LTD (ACN 115 880 772), area of 12 blocks, dated 21 May 2007. (Clarence-Moreton Basin).

(07-431)

No. 27, TITO TRAPUZZANO, area of 1 block, dated 22 May 2007. (Clarence-Moreton Basin).

(07-436)

No. 28, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 24 blocks, dated 24 July 2007. (Sydney Basin).

(07-437)

No. 29, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 23 blocks, dated 24 July 2007. (Sydney Basin).

(07-5389)

No. 30, LEICHHARDT RESOURCES PTY LTD (ACN 125 844 448), area of 9 blocks, dated 24 July 2007. (Gunnedah-Surat Basin).

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications have been granted:

**EXPLORATION LICENCE APPLICATIONS**

(06-7064)

No. 2933, now Exploration Licence No. 6858, MINERAL SANDS LIMITED (ACN 103 006 542), County of Wentworth, Map Sheets (7329, 7330, 7430), area of 235 units, for Group 10, dated 16 August 2007, for a term until 16 August 2009.

(07-174)

No. 3069, now Exploration Licence No. 6860, ELLEMBY RESOURCES PTY LTD (ACN 069 359 011), Counties of Poole and Tongowoko, Map Sheets (7238, 7239), area of 47 units, for Group 1, dated 16 August 2007, for a term until 16 August 2009.

(07-175)

No. 3070, now Exploration Licence No. 6859, ELLEMBY RESOURCES PTY LTD (ACN 069 359 011), Counties of Evelyn and Tongowoko, Map Sheet (7238), area of 93 units, for Group 1, dated 16 August 2007, for a term until 16 August 2009.

(07-240)

No. 3137, now Exploration Licence No. 6857, BULLDOZER PROSPECTING PTY LTD (ACN 125 564 865), County of Yancowinna, Map Sheets (7134, 7234), area of 8 units, for Group 1, dated 8 August 2007, for a term until 8 August 2009.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following application has been withdrawn:

**EXPLORATION LICENCE APPLICATION**

(07-100)

No. 2998, ST JUDE EXPLORATION PTY LTD (ACN 079 398 780), County of Dowling, Map Sheet (8130). Withdrawal took effect on 23 August 2007.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

NOTICE is given that the following applications for renewal have been received:

(07-6420)

Authorisation No. 268, XSTRATA MT OWEN PTY LIMITED (ACN 003 827 361), area of 256 hectares. Application for renewal received 23 August 2007.

(07-6477)

Authorisation No. 374, DENDROBIUM COAL PTY LTD (ACN 098 744 088), area of 59.5 square kilometres. Application for renewal received 28 August 2007.

(T94-0194)

Exploration Licence No. 5336, NSW GOLD NL (ACN 003 307 702), area of 14 units. Application for renewal received 22 August 2007.

(T02-0079)

Exploration Licence No. 6002, BROKEN HILL OPERATIONS PTY LTD (ACN 054 920 893), area of 36 units. Application for renewal received 28 August 2007.

(T03-0035)

Exploration Licence No. 6132, PLATSEARCH NL (ACN 003 254 395), EAGLEHAWK GEOLOGICAL CONSULTING PTY LTD (ACN 061 324 454) AND TRIAKO RESOURCES LIMITED (ACN 008 498 119), area of 74 units. Application for renewal received 23 August 2007.

(06-60)

Exploration Licence No. 6622, HERITAGE GOLD NZ LTD (ACN 009 474 702), area of 22 units. Application for renewal received 27 August 2007.

(T83-1374)

Exploration (Prospecting) Licence No. 1050, CONRAD SILVER MINES PTY LTD (ACN 106 967 506), area of 4 units. Application for renewal received 28 August 2007.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

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#### RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(T00-0406)

Gold Lease No. 5809 (Act 1906), KEVIN MANSON PTY LIMITED (ACN 001 279 161), Parish of Tambaroora, County of Wellington, Map Sheet (8731-1-N), area of 3.42 hectares, for a further term until 27 January 2023. Renewal effective on and from 8 August 2007.

(T03-0636)

Mining Lease No. 1116 (Act 1973), HILL END GOLD LIMITED (ACN 072 692 365), Parish of Tambaroora, County of Wellington, Map Sheet (8731-1-N), area of 15.71 hectares, for a further term until 16 October 2024. Renewal effective on and from 8 August 2007.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

#### CANCELLATION OF AUTHORITY AT REQUEST OF HOLDER

NOTICE is given that the following authority has been cancelled:

(05-232)

Exploration Licence No. 6476, TURON GOLD PTY LTD (ACN 108 675 216), County of Georgiana and County of King, Map Sheet (8729), area of 40 units. Cancellation took effect on 16 August 2007.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

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#### TRANSFER

(T94-0246)

Exploration Licence No. 5242, formerly held by HERALD RESOURCES LIMITED (ACN 008 672 071) has been transferred to JAGUAR MINERALS LIMITED (ACN 107 159 713). The transfer was registered on 28 August 2007.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

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#### MINING ACT 1992

Order Under Section 224

I, Warren Green, Acting Manager Mineral Titles and Lightning Ridge by delegation from the Minister for Mineral Resources, pursuant to the provisions of section 224 of the Mining Act 1992, do by this Order constitute lands within Opal Prospecting Area No. 4 and depicted on plan catalogued M27048 in the Department of Primary Industries-Minerals Division, Maitland as Opal Prospecting Block Nos 218 to 222 inclusive.

Dated this 28th day of August 2007.

IAN MACDONALD, M.L.C.,  
Minister for Mineral Resources

# Roads and Traffic Authority

## ROAD TRANSPORT (GENERAL) ACT 2005

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

ARMIDALE DUMARESQ COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

General Manager,  
Armidale Dumaresq Council  
(by delegation from the Minister for Roads)  
27 August 2007

### SCHEDULE

#### 1. Citation

This Notice may be cited as Armidale Dumaresq Council 25 Metre B-Double Vehicle Route Notice No. 1/2007

#### 2. Commencement

This Notice takes effect on the date of gazettal.

#### 3. Effect

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

#### 4. Application

This Notice applies to those B-Doubles vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

#### 5. Routes

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25		Madgwick Road, Armidale	Martin Street	Clarks Road	
25		Handel Street, Armidale	Boorolong Road	Old Inverell Road	
25		Boorolong Road, Armidale	Handel Street	Town Limit	
25		Cookes Road, Armidale	Erskine Street	Apple Tree Hill Drive	
25		Apple Tree Hill Drive, Armidale	Rockvale Road	Cookes Road	
25		Long Swamp Road, Armidale	Depot Road	Town Limit	
25		Depot Road, Armidale	Long Swamp Road	To end of road	
25		Seaton Street, Armidale	Myrtle Drive	To end of road	
25		Mann Street, Armidale	Miller Street	Mott Street	
25		Mott Street, Armidale	Mann Street	200m north	



**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

BATHURST REGIONAL COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

Mr DAVID SHERLEY,  
General Manager,  
Bathurst Regional Council  
(by delegation from the Minister for Roads)  
July 2007

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SCHEDULE

**1. Citation**

This Notice may be cited as Bathurst Regional Council B-Double Notice No. 1/2007.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until Wednesday 3 October 2007 only unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Names</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25	000	Havannah Street, Bathurst	Rocket Street	Panorama Avenue	
25	000	Panorama Avenue, Bathurst	Havannah Street	Pit Straight	
25	000	Pit Straight, Bathurst	Panorama Avenue	Pit Complex	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

BATHURST REGIONAL COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

Mr DAVID SHERLEY,  
General Manager,  
Bathurst Regional Council  
(by delegation from the Minister for Roads)  
July 2007

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SCHEDULE

**1. Citation**

This Notice may be cited as Bathurst Regional Council B-Double Notice No. 2/2007.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force from Monday 1 October 2007 to Tuesday 9 October 2007 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

Type	Road No.	Road Name	Starting Point	Finishing Point	Conditions
25	000	Pit Straight, Bathurst	Pit Complex	Panorama Avenue	
25	000	Panorama Avenue, Bathurst	Pit Straight	Havannah Street	
25	000	Havannah Street, Bathurst	Panorama Avenue	Great Western Highway	
25	000	William Street, Bathurst	Great Western Highway	Panorama Avenue	
25	000	Panorama Avenue, Bathurst	William Street	Pit Straight	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

CLARENCE VALLEY COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

General Manager  
Clarence Valley Council  
(by delegation from the Minister for Roads)  
27 August 2007

**SCHEDULE****1. Citation**

This Notice may be cited as Clarence Valley Council 25 Metre B-Double Vehicle Route Notice No. 1/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Doubles vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25		Iolanthe Street, South Grafton	Spring Street	500m north of Spring Street	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

GLEN INNES SEVERN COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

HEIN BASSON,  
General Manager  
Glen Innes Severn Council  
(by delegation from the Minister for Roads)  
30 July 2007

**SCHEDULE****1. Citation**

This Notice may be cited as Glen Innes Severn Council 25 Metre B-Double Notice No. 1/2007.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25m		Young Street, Deepwater	New England Highway	Severn Street	
25m		Severn Street, Deepwater	Young Street	Dundee Street	
25m		Dundee Street, Deepwater	New England Highway	Severn Street	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

GLEN INNES SEVERN COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

General Manager  
Glen Innes Severn Council  
(by delegation from the Minister for Roads)  
27 August 2007

**SCHEDULE****1. Citation**

This Notice may be cited as Glen Innes Severn Council 25 Metre B-Double Vehicle Route Notice No. 2/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Doubles vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25		Wentworth Street, Glen Innes	New England Highway	Grey Street	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

GUYRA SHIRE COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles and 4.6m High Vehicles may be used subject to any requirements or conditions set out in the Schedule.

General Manager  
Guyra Shire Council  
(by delegation from the Minister for Roads)  
27 August 2007

**SCHEDULE****1. Citation**

This Notice may be cited as Guyra Shire Council 25 Metre B-Double and 4.6m High Vehicle Route Notice No. 1/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Doubles and 4.6m high vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25 and 4.6m	MR135	Guyra-Ebor Road, Guyra	Ollera Street	Eastern Town Limit	
25 and 4.6m		Sandon Street, Guyra	New England Highway	Ryanda Street	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

INVERELL SHIRE COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

General Manager  
Inverell Shire Council  
(by delegation from the Minister for Roads)  
27 August 2007

**SCHEDULE****1. Citation**

This Notice may be cited as Inverell Shire Council 25 Metre B-Double Vehicle Route Notice No. 2/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Doubles vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25		Mansfield Street, Inverell	Sweaney Street	Byron Street	
25		Henderson Street, Inverell	Otho Street (HW12)	Campbell Street	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

LIVERPOOL PLAINS SHIRE COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

General Manager  
Liverpool Plains Shire Council  
(by delegation from the Minister for Roads)  
27 August 2007

**SCHEDULE****1. Citation**

This Notice may be cited as Liverpool Plains Shire Council 25 Metre B-Double Vehicle Route Notice No. 1/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Doubles vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25		Borah Creek Road, Quirindi	Allnutt Street	Town limits	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

SYDNEY OLYMPIC PARK AUTHORITY, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which 4.6 metre high vehicles may be used subject to any requirements or conditions set out in the Schedule.

STEPHEN KENNETT,  
 Manager Traffic and Transport,  
 Sydney Olympic Park Authority  
 (by delegation from the Minister for Roads)  
 27 August 2007.

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**SCHEDULE**
**1. Citation**

This Notice may be cited as 4.6 metre high vehicles Notice No. 01/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 31 December 2007 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those 4.6m high vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Condition</i>
4.6	Pondage Link, Sydney Olympic Park	Hill Road	Edwin Flack Avenue	
4.6	Edwin Flack Avenue – Kevin Coombs Road	Pondage Link	Australia Avenue	
4.6	Australia Avenue	Kevin Coombs Avenue	Sydney Showground Gate 13	Exit via the same route

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

TAMWORTH REGIONAL COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

General Manager  
Tamworth Regional Council  
(by delegation from the Minister for Roads)  
27 August 2007

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SCHEDULE

**1. Citation**

This Notice may be cited as Tamworth Regional Council 25 Metre B-Double Vehicle Route Notice No. 4/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Doubles vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25		Hinkler Street, Tamworth	Gunnedah Road	End of Road	
25		Gunnedah Road, Tamworth	Oxley Highway	Hinkler Street	
25		Bass Street, Tamworth	Oxley Highway	Hume Street	
25		Cook Street, Tamworth	Oxley Highway	Hume Street	
25		Plain Street, Tamworth	Arvo Street	Ebsworth Street	
25		Barnes Street, Tamworth	Belmore	Crown Street	
25		Belmore Street, Tamworth	Oxley Highway	William Street	
25		Belmore Street, Tamworth	Barnes Street	South to end	
25		Marius Street, Tamworth	Manilla Road	O'Connell Street	
25		Hume Street, Tamworth	Cook Street	Dampier Street	

**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

TAMWORTH REGIONAL COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles and 4.6m High Vehicles may be used subject to any requirements or conditions set out in the Schedule.

General Manager  
Tamworth Regional Council  
(by delegation from the Minister for Roads)  
27 August 2007

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SCHEDULE

**1. Citation**

This Notice may be cited as Tamworth Regional Council 25 Metre B-Double and 4.6m High Vehicle Route Notice No. 5/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Doubles and 4.6m high vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25 and 4.6m		Goonoo Goonoo Road, Tamworth	Vera Street/Scotts Road	Church Street	



**ROAD TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road Transport (Mass, Loading and Access) Regulation 2005

WALCHA SHIRE COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading, Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles and 4.6m high vehicles may be used subject to any requirements or conditions set out in the Schedule.

General Manager  
Walcha Shire Council  
(by delegation from the Minister for Roads)  
27 August 2007

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SCHEDULE

**1. Citation**

This Notice may be cited as Walcha Shire Council 25 Metre B-Double and 4.6 m High Vehicle Route Notice No. 1/2007

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Application**

This Notice applies to those B-Doubles and 4.6 m high vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25 and 4.6m	Derby Street (Thunderbolts Way), Walcha	Northern Town Limit	Southern Town Limit	
25 and 4.6m	Towers Street, Walcha	Oxley Highway	End of road – 100m north of North Street	
25 and 4.6m	Jamieson Street, Walcha	Derby Street	Emu Creek Road	
25 and 4.6m	Emu Creek Road, Walcha	Jamieson Street	Town Limit	

**ROADS AND TRANSPORT (GENERAL) ACT 2005**

Notice under Clause 20 the Road and Transport (Mass, Loading and Access) Regulation 2005

WEDDIN SHIRE COUNCIL, in pursuance of Division 4 of Part 2 of the Road Transport (Mass, Loading and Access) Regulation 2005, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

TREVOR LOBB,  
General Manager,  
Weddin Shire Council  
24 August 2007

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SCHEDULE

**1. Citation**

This Notice may be cited as Weddin Shire Council B-Double Vehicle Route Notice No. 1/2007.

**2. Commencement**

This Notice takes effect on the date of gazettal.

**3. Effect**

This Notice remains in force until 30 September 2010 unless it is amended or repealed earlier.

**4. Applications**

This Notice applies to those B-Double vehicles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) Regulation 2005 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

**5. Routes**

<i>Type</i>	<i>Road No.</i>	<i>Road Name</i>	<i>Starting Point</i>	<i>Finishing Point</i>	<i>Conditions</i>
25	000	Holy Camp Road, Weddin Shire	MR239, Grenfell-Young Road	Berrys Lane	
25	000	Berrys Lane, Weddin Shire	Holy Camp Road	100 metres north of unnamed lane along southern boundary of Lot 1, DP 569688, Weddin Shire	
25	000	Unnamed lane along southern boundary of Lot 1, DP 569688, Weddin Shire	Berrys Lane	Entrance to Lot 1, DP 569688, approx 200 metres east of Berrys Lane	

**ROAD TRANSPORT (VEHICLE REGISTRATION) ACT 1997**

## Notice Fixing Fees

I, Les Wielinga, Chief Executive of the Roads and Traffic Authority, pursuant to section 8 (1) (k) of the Road Transport (Vehicle Registration) Act 1997 and clause 79 of the Road Transport (Vehicle Registration) Regulation 1998, FIX the fee set out in column 2 of the Schedule to this Notice in respect of the service shown opposite to it in Column 1 of that Schedule.

LES WIELINGA,  
Chief Executive Roads and Traffic Authority

**SCHEDULE**

- 1 This Notice takes effect on 24 September 2007.
- 2 In the case of a vehicle to be inspected by the Authority for the purpose of identification prior to the establishment of registration, the relevant fees are applicable:
 

<i>Column 1</i>	<i>Column 2</i>
Booking fee for all vehicles	\$55
Inspection of a vehicle on the national written off vehicle register, as maintained by roads authorities in each jurisdiction	\$351
3. Unless otherwise determined by the Authority, if the vehicle is not presented for an inspection in accordance with the booking;
  - a. The booking fee for that inspection is forfeited to the Authority; and
  - b. If the vehicle is subsequently presented for inspection, a further inspection fee must be paid to the Authority before the vehicle is inspected.
4. An agreement referred to in clause 3 above may be varied at the request of the customer so long as the request is made not more than 24 hours before the time currently agreed.

**ROAD TRANSPORT (GENERAL) ACT 2005**

General Class 3 Concrete Pipe Carrier Notice under Division 5 of Part 2 of the  
Road Transport (Mass, Loading and Access) Regulation 2005

I, Les Wielinga, Chief Executive of the Roads and Traffic Authority, in pursuance of Part 2, Division 5 of the Road Transport (Mass, Loading and Access) Regulation 2005, by this Notice, exempt vehicles carrying concrete pipes from the provisions of clause 70 of Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998, subject to the conditions and requirements set out in this Notice.

LES WIELINGA,  
Chief Executive,  
Roads and Traffic Authority

**Index****Part 1 – Preliminary**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Interpretations
- 1.4 Effect
- 1.5 Application

**Part 2 – Operating and travel requirements**

- 2.1 Operating requirements
- 2.2 Travel requirements

**Part 3 – Dimension limits**

- 3.1 Width of vehicles and loads
- 3.2 Compliance with other dimension limits

**Part 4 – Definitions****Part 1 – Preliminary**

- 1.1 Citation  
This Notice may be cited as the General Class 3 Concrete Pipe Carrier Notice 2007.
- 1.2 Commencement  
This Notice takes effect on 1 September 2007.
- 1.3 Interpretations

1.3.1 Unless stated otherwise, words and expressions used in this Notice that are defined in Part 4 of this Notice or the Dictionary forming part of the Road Transport (Mass, Loading and Access) Regulation 2005 have the same meanings as those set out in that Part or that Dictionary.

1.3.2 Except where a contrary intention is indicated, the index, diagrams and notes in the text of this Notice do not form part of this Notice.

#### 1.4 Effect

This Notice remains in force until 29 February 2008 unless it is amended or repealed earlier.

#### 1.5 Application

1.5.1 This Notice applies provided that the motor vehicles, of the kind described in clause 1.5.2 are operated in accordance with the operation and travel requirements in Part 2 to this Notice.

1.5.2 This Notice applies to a Class 3 vehicle used to carry concrete pipes loaded transversely which does not, apart from its load of concrete pipes, exceed 2.5 metres in width.

Note: The concessional arrangements allowed by this Notice do not apply to B-doubles or road trains

### Part 2 – Operating and travel requirements

#### 2.1 Operating requirements

2.1.1 A copy of this Notice must be carried in the driving compartment whenever the vehicle is operating as a Class 3 vehicle carrying concrete pipes and must be produced to a police officer or an authorised officer when requested.

#### 2.2 Travel requirements

2.2.1 A Class 3 vehicle carrying concrete pipes wider than 2.5 m must comply with the relevant provisions of the General Class 1 Oversize (Load-Carrying Vehicle) Notice 2007.

2.2.2 For the purposes of this Notice, the following roads in Emu Plains are deemed to be included in the Sydney Metropolitan Travel Zone of the General Class 1 Oversize (Load-Carrying Vehicle) Notice 2007:

M4 Motorway, Russell Street, Old Bathurst Road, Great Western Highway.

### Part 3 – Dimension limits

3.1 The width of any load of concrete pipes carried on a Class 3 vehicle operating under this Notice must not exceed 2.65 metres.

3.2 A Class 3 vehicle and its load must comply with all other dimension limits provided in the Regulations, including those relating to overhangs.

### Part 4 – Definitions

“authorised officer” means an officer of a Class referred to in Schedule 2 of the Road Transport (General) Regulation 2005, being a person who satisfies the criteria specified in respect of an officer of that Class.

“Class 3 vehicle” means a restricted access vehicle other than a Class 1 vehicle or a Class 2 vehicle.

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## ROAD TRANSPORT (GENERAL) ACT 2005

Notice under the Road Transport (Mass, Loading and Access) Regulation 2005

I, Les Wielinga, Chief Executive of the Roads and Traffic Authority, in pursuance to the Road Transport (Mass, Loading and Access) Regulation 2005, make the Notice set forth hereunder.

LES WIELINGA,  
Chief Executive,  
Roads and Traffic Authority

### AMENDMENT

The General B-Double Notice 2005 under Division 4 of Part 2 of the Road Transport (Mass, Loading and Access) Regulation 2005, published in *Government Gazette* No. 164 of 23 December 2005 at pages 11267-11418, is amended:

#### Delete

3.5.2 The distance between the axles closest to each other in an adjacent multi-axle group must not differ from the distance between axles in any other adjacent multi axle group by more than 1 metre.

**ROAD TRANSPORT (GENERAL) ACT 2005**

General Class 3 Notice made under Division 5 of Part 2 of the  
Road Transport (Mass, Loading and Access) Regulation 2005

I, Les Wielinga, Chief Executive of the Roads and Traffic Authority, in pursuance of Division 5 of Part 2 of the Road Transport (Mass, Loading and Access) Regulation 2005, do, by this Notice, exempt the vehicles described in Part 2 of the Schedule to this Notice from the dimensions, as specified in this Notice, set out in Clause 4(2) of Schedule 1 to the Road Transport (Mass, Loading and Access) Regulation 2005, subject to any conditions or requirements set out in the Schedule below.

LES WIELINGA,  
Chief Executive,  
Roads and Traffic Authority

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**SCHEDULE****PART 1 – PRELIMINARY****1.1 Citation**

This Notice may be cited as the General B-Double Axle Spacing Exemption Notice 2007.

**1.2 Commencement**

This Notice takes effect on the date of publication in the NSW Government Gazette.

**1.3 Interpretations**

Unless stated otherwise, words and expressions used in this Notice have the same meaning as those defined in the Dictionary to the Road Transport (Mass, Loading and Access) Regulation 2005.

**1.4 Effect**

This Notice remains in force until such time it is amended or repealed.

**PART 2 – APPLICATION**

- 2.1** This Notice applies to B-Doubles other than those with two tri-axle groups.

**PART 3 – DIMENSIONS**

- 3.1** B-Doubles referred to in 2.1 are exempt from the application of Clause 4 (2) of Schedule 1 to the Road Transport (Mass, Loading and Access) Regulation 2005.

Note: Clause 4 (2) requires that –

“The distance between the axles closest to each other in any adjacent multi-axle groups in a B Double must not differ from the distance between axles closest to each other in any other adjacent multi axle groups by more than 1 metre.”

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at  
Hinchinbrook in the Liverpool City Council area

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

ALL that piece or parcel of land situated in the Liverpool City Council area, Parish of St Luke and County of Cumberland, shown as Lot 4 Deposited Plan 1110197, being part of the land in Certificate of Title 1/934856.

The land is said to be in the possession of Liverpool City Council.

(RTA Papers: FPP 7M2119; RO F9/259.11033)

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at  
Hinchinbrook in the Liverpool City Council area.

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the Schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

All that piece or parcel of land situated in the Liverpool City Council area, Parish of St Luke and County of Cumberland, shown as Lot 5 Deposited Plan 1110197, being part of the land in Certificate of Title Volume 3235 folio 210 and notifications in the Government Gazette of 6 May 1949 and 3 November 1995 and said to be in the possession of the Crown and Liverpool City Council as the corporation appointed to manage the affairs of Hoxton Park Reserve (R73163) Reserve Trust.

(RTA Papers FPP 7M2120; RO F9/259.11032)

**ROADS ACT 1993****LAND ACQUISITION (JUST TERMS  
COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at Kew  
in the Port Macquarie Hastings 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.

Manager, Compulsory Acquisition & Road Dedication  
Roads and Traffic Authority of New South Wales

**SCHEDULE**

ALL that piece or parcel of land situated in the Port Macquarie Hastings Council area, Parish of Camden Haven and County of Macquarie, shown as:

Lot 19 Deposited Plan 1106207, being part of the land in Certificate of Title 1/733145 and said to be in the possession of Karen Denise McDonald (registered proprietor) and Commonwealth Bank of Australia (mortgagee);

excluding any existing easements from the compulsory acquisition of the land listed above.

(RTA Papers: FPP 6M3434)

## Department of Water and Energy

### WATER ACT 1912

AN application for a license under Part 5 of the Water Act 1912, as amended, has been received as follows:

#### *Murrumbidgee Valley*

Peter Anthony RANKIN and Jennifer May RANKIN for a bore on Lot 1, DP 1023099, Parish of Keewong, County of Murray for a water supply for stock, domestic and irrigation purposes (oak trees/truffle production – 2 hectares). New license. Reference 40BL191591.

Written submissions of support or objections with grounds stating how your interest may be affected must be lodged before 21 September 2007 as prescribed by the Act.

GA2:532393

S. F. WEBB,  
Licensing Manager,  
Murray/Murrumbidgee Region

Department of Water and Energy  
PO Box 156,  
Leeton NSW 2705

### WATER ACT 1912

AN application for a licence, under the section 10 of Part 2 of the Water Act 1912, as amended, has been received as follows:

Sam Alexander MITCHELL for a pump on the Macdonald River on Lot 191, DP 1107240, Parish of Auburn, County of Northumberland for the irrigation of 3.0 hectares (improved pasture) (Part replacement licence – Part replaces 10SL055408) (no increase in authorised area – no increase in annual water entitlement) (Not subject to the 1995 Hawkesbury/Nepean Embargo) (Ref:10SL056770) (GA2 534357)

Any inquiries regarding the above should be directed to the undersigned (Phone: 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,  
Licensing South,

Department of Water and Energy,  
PO Box 3720,  
Parramatta NSW 2124

### WATER ACT 1912

APPLICATION under Part 2 of the Water Act 1912, being within a proclaimed (declared) local area under section 5 (4) of the Act.

An application for a licence, under section 10 of Part 2 of the Water Act has been received as follows:

#### *Murray River Valley*

Catherine Margaret TOBIN for a 150mm pump, an Off Creek Storage and a Block Dam on an unnamed watercourse on Lot 2, DP 224527, Parish of Bowna, County of Goulburn for Irrigation purposes. This is a new licence due to a

permanent transfer of a water entitlement. (GA2:524730) (Ref:50SL75699).

Any enquiries regarding the above should be directed to the undersigned (telephone (02) 6024 8859).

Written objections to the application specifying the grounds thereof, may be made by any statutory authority or local occupier within the proclaimed area whose interests may be affected, and must be lodged with the Department's office at Albury by no later than the 28 September, 2007.

GA2:524730

C. PURTLE  
Senior Licensing Officer  
Licensing South  
Albury  
(02) 6024 8859

Department of Water and Energy,  
PO Box 829,  
Albury NSW 2640

### WATER ACT 1912

AN application for a license under Part 5 of the Water Act 1912, as amended, has been received as follows:

#### *Murrumbidgee Valley*

Gregory Joseph McALLISTER for a bore on Lot 2, DP 223057, Parish of Amungula, County of Murray for a water supply for industrial/commercial purposes (water carting). New license. Reference 40BL191596.

Written submissions of support or objections with grounds stating how your interest may be affected must be lodged before 28 September 2007 as prescribed by the Act.

S. F. WEBB,  
Licensing Manager,  
Murray/Murrumbidgee Region

Department of Water and Energy,  
PO Box 156,  
Leeton NSW 2705

### WATER ACT 1912

APPLICATIONS for new licences under Part 5 of the Water Act 1912, as amended have been received as follows:

RICHARD RONALD McCONOCHIE for a proposed artesian bore, Lot 12, DP 753502, Parish Wullamgambone, County Gregory for water supply for stock and domestic purposes (80BL244482).

MURRAY ASHTON SIMPSON and PATRICIA ANN SIMPSON for a proposed artesian bore, Lot 16, DP 753494, Parish The Mole, County Gregory for water supply for stock purposes (80BL244481).

MURRAY ASHTON SIMPSON for a proposed artesian bore, Lot 51, DP 753459, Parish Grahway, County Gregory for water supply for stock purposes (80BL244106).

BRUCE CAMPBELL NOMINEES PTY LIMITED for a proposed artesian bore, Lot 2, DP 1110061, Parish Northcote, County Gregory for water supply for stock and domestic purposes (80BL244483).



BRUCE CAMPBELL NOMINEES PTY LIMITED for a proposed artesian bore, Lot 27, DP 753482, Parish Northcote, County Gregory for water supply for stock and domestic purposes (80BL244485).

Written objections to the applications specifying grounds thereof must be lodged with the Department of Water and Energy, Locked Bag 10, Grafton NSW 2460 within 28 days of the date of publication.

DENNIS MILLING,  
Manager Licensing

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### WATER ACT 1912

AN application 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 of Part 2 of the Water Act 1912 has been received as follows:

#### *Barwon-Darling River Valley*

Henry Lester SHEPHERD for a pump on the Bogan River, Lot 34, DP 755103, Parish Enerweena, County Narromine for water supply for stock and domestic purposes and irrigation of 25 hectares (combining & replacing existing entitlement by way of permanent transfer) (80SL96270).

Peter Gerard SIMMONDS & Tracey May SIMMONDS for a pump on the Darling River, Lots 63, 64, 67 and 69, DP 751867, Parish East Bourke, County Cowper for water supply for stock and domestic purposes and irrigation of 12.5 hectares (pasture & melons) (replacing existing A class entitlement by way of permanent transfer) (85SL105004).

#### *Gwydir Valley*

TIPALEA PARTNERS PTY LTD (Gunnee Station) for a bywash dam on an unnamed watercourse, Lot 101, DP 1078963, Parish Burnett, County Burnett for water supply for stock and domestic purposes (90SL100941).

#### *Namoi River Valley*

Douglas Clyde WHITE and Lynette Gail WHITE for a pump on the Peel River on Lot 1, DP 95993 Parish Tangaratta, County Parry for irrigation of 11 hectares (lucerne). (Replacement licence; amalgamation of existing entitlement with entitlement obtained by way of permanent transfer) (90SL100933)

Anthony Grahame DONNELLY and Sonia Maree DONNELLY for 2 pumps on the Namoi River and three dams and one pump on an unnamed watercourse on Lots 135 and 136, DP 752201 Parish Veness, County Darling for irrigation of 35 hectares (oats and improved pastures). (New licence, water entitlement obtained by way of permanent transfer) (90SL100934)

PRES DAR PTY LTD for 2 pumps on the Peel River on Lot 3, DP 1047657 County Parry for irrigation of 80 hectares (lucerne) (New licence; amalgamation of existing entitlement with entitlements obtained by way of permanent transfer) (increased pumping capacity) (90SL100945).

#### *North Coast*

CHRISTOPHER KEVIN CLEARY and DEIRDRE ANN CLEARY for a pump on Orara River Lot 282, DP 615218 Parish Comlaroi County Fitzroy for irrigation of 1 hectare (5 megalitres) (new license, entitlement by way of permanent transfer) (Ref:9045329-1).

#### *Hunter*

John Hudson WALLIS and Shona Aicken WALLIS for a pump on the Gloucester River on Lot 40, DP 828252, Parish Berrico, County Gloucester for irrigation of 1.5 hectares (improved pasture, permanent water transfer) 20SL061732

Rowan Morris BERECRY and Helen Margaret Honor BERECRY for a dam and pump within the catchment area of Ironbark Creek on Lot 168, DP 755253, Parish Popran, County Northumberland for conservation of water and irrigation of 5.0 hectares (stonefruit, split of existing license) 20SL061735

Written objections to the applications specifying the grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be affected and must be lodged with the Department of Water & Energy, Locked Bag 10, Grafton NSW 2460, within 28 days of the date of publication.

DENNIS MILLING,  
Manager Licensing

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### WATER MANAGEMENT ACT 2000

#### Order under section 71Z

#### Access Licence Dealing Principles Order 2007 (Water Tagging Zones)

PURSUANT to section 71Z of the Water Management Act 2000, I Simon Miller as delegate of the Minister for Climate Change, Environment and Water amend the Access Licence Dealing Principles Order 2004 as set out in schedule 1.

Dated at Sydney this 23rd day of August 2007.

SIMON Miller,  
Acting Director General,  
Department of Water and Energy

#### SCHEDULE 1

#### Amendments

- [1] Clause 20 Nomination of water supply works  
Insert "unless that nomination is for a water supply work in a NSW water tagging zone or an interstate water tagging zone" after "location of the nominated work" in clause 20 (5).
- [2] Clause 20(10)  
Insert after clause 20 (9)
  - (10) Dealings under section 71W which involve the nomination, or the withdrawal of any such nomination, of water supply works in a NSW water tagging zone or an interstate water tagging zone must be assessed in accordance with the rules applying from time to time under Schedule E of the Murray Darling Basin Agreement.
- [3] Insert after clause 20  
Clause 21 Interstate and NSW Tagging Zones
  - (1) The interstate water tagging zones which are approved from time to time in the Protocols made under Schedule E of the Murray Darling Basin Agreement are established as interstate water tagging zones for the purposes of section 71W of the Act.



- (2) The NSW water tagging zones specified in Schedule 1 are established as NSW water tagging zones for the purposes of section 71W of the Act.

Schedule 1 – NSW water tagging zones

<i>Name of the Zone</i>	<i>Description of the Zone</i>
Murrumbidgee water tagging zone	The Murrumbidgee Regulated River Water Source as defined in the Water Sharing Plan for the Murrumbidgee Regulated River Water Source.
NSW Murray above the Barmah Choke water tagging zone	Those parts of the New South Wales Murray Regulated River Water Source that are above the Barmah Choke as defined in the Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Source.
NSW Murray below the Barmah Choke water tagging zone	Those parts of the New South Wales Murray Regulated River Water Source that are below the Barmah Choke as defined in the Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Source.
Lower Darling water tagging zone	The Lower Darling Regulated River Water Source as defined in the Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Source.

Note: The Access Licence Dealing Principles Order 2004 incorporating these amendments can be viewed at: <http://www.legislation.nsw.gov.au>.

## Other Notices

### APPRENTICESHIP AND TRAINEESHIP ACT 2001

#### Notice Of Making Of A Vocational Training Order

THE following Vocational Training Order is made under section 6 of the Apprenticeship and Traineeship Act 2001 in relation to the recognised traineeship vocation of Drilling Operations.

#### CITATION

The Order is cited as the Drilling Operations Order.

#### ORDER

The Order is given below.

##### (a) Term of Training

##### (i) Full-time

Training shall be given for a nominal period of:

Certificate II in Drilling – Environmental DRT20103	12 months	Certificate III in Drilling – Geotechnical DRT30303 when the trainee holds the Certificate II in Drilling – Geotechnical DRT20303	12 months
Certificate III in Drilling – Environmental DRT30103 by direct entry	24 months	Certificate IV in Drilling – Geotechnical DRT40303 by direct entry	30 months
Certificate III in Drilling – Environmental DRT30103 when the trainee holds Certificate II in Drilling – Environmental DRT20103	12 months	Certificate IV in Drilling – Geotechnical DRT40303 when the trainee holds the Certificate III in Drilling – Geotechnical DRT30303	12 months
Certificate IV in Drilling – Environmental DRT40103 by direct entry	30 months	Certificate II in Drilling – Trenchless Technology DRT20403	12 months
Certificate IV in Drilling – Environmental DRT40103 when the trainee holds Certificate III in Drilling – Environmental DRT30103	12 months	Certificate III in Drilling – Trenchless Technology DRT30403 by direct entry	24 months
Certificate II in Drilling – Foundation/Construction DRT20203	12 months	Certificate III in Drilling – Trenchless Technology DRT30403 when the trainee holds the Certificate II in Drilling – Trenchless Technology DRT20403	12 months
Certificate III in Drilling – Foundation/Construction DRT30203 by direct entry	24 months	Certificate IV in Drilling – Trenchless Technology DRT40403 by direct entry	30 months
Certificate III in Drilling – Foundation/Construction DRT30203 when the trainee holds the Certificate II in Drilling – Foundation/ Construction DRT20203	12 months	Certificate IV in Drilling – Trenchless Technology DRT40403 when the trainees holds the Certificate III in Drilling – Trenchless Technology DRT30403	12 months
Certificate IV in Drilling – Foundation/Construction DRT40203 by direct entry.	30 months	Certificate II in Drilling – Mineral Exploration DRT20503	12 months
Certificate IV in Drilling – Foundation/Construction DRT40203 where the trainees holds the Certificate III in Drilling – Foundation/ Construction DRT30203	12 months	Certificate III in Drilling – Mineral Exploration DRT30503 by direct entry	24 months
Certificate II in Drilling – Geotechnical DRT20303	12 months	Certificate III in Drilling – Mineral Exploration DRT30503 when the trainee holds the Certificate II in Drilling – Mineral Exploration DRT20503	12 months
Certificate III in Drilling – Geotechnical DRT30303 by direct entry	24 months	Certificate IV in Drilling – Mineral Exploration DRT40503 by direct entry	30 months
		Certificate IV in Drilling – Mineral Exploration DRT40503 when the trainee holds the Certificate III in Drilling – Mineral Exploration DRT30503	12 months
		Certificate II in Drilling – Mineral Production and Development DRT20603	12 months

Certificate III in Drilling – Mineral Production and Development DRT30603 by direct entry	24 months	Certificate III in Drilling – Oil/Gas On shore DRT30903 when the trainee holds the Certificate II in Drilling – Oil/Gas On shore DRT20903	12 months
Certificate III in Drilling – Mineral Production and Development DRT30603 when the trainee holds Certificate II in Drilling – Mineral Production and Development DRT20603	12 months	Certificate IV in Drilling – Oil/Gas On shore DRT40903 by direct entry	30 months
Certificate IV in Drilling – Mineral Production and Development DRT40603 by direct entry	30 months	Certificate IV in Drilling – Oil/Gas On shore DRT40903 when the trainee holds the Certificate III in Drilling – Oil/Gas On shore DRT30903	12 months
Certificate IV in Drilling – Mineral Production and Development DRT40603 when the trainee holds the Certificate III in Drilling – Mineral Production and Development DRT30603	12 months	Certificate II in Drilling – Seismic DRT21003	12 months
Certificate II in Drilling – Blast Hole DRT20703	12 months	Certificate III in Drilling – Seismic DRT31003 by direct entry	24 months
Certificate III in Drilling – Blast Hole DRT30703 by direct entry	24 months	Certificate III in Drilling – Seismic DRT31003 when the trainee hold the Certificate II in Drilling – Seismic DRT21003	12 months
Certificate III in Drilling – Blast Hole DRT30703 when the trainee holds the Certificate II in Drilling – Blast Hole DRT20703	12 months	Certificate IV in Drilling – Seismic DRT41003 by direct entry	30 months
Certificate IV in Drilling – Blast Hole DRT40703 by direct entry	30 months	Certificate IV in Drilling – Seismic DRT41003 when the trainee holds the Certificate III in Drilling – Seismic DRT31003	12 months
Certificate IV in Drilling – Blast Hole DRT40703 when the trainee holds the Certificate III in Drilling – Blast Hole DRT30703	12 months	Certificate II in Drilling – Water Well DRT21103	12 months
Certificate II in Drilling – Oil/Gas Off shore DRT20803	12 months	Certificate III in Drilling – Water Well DRT31103 by direct entry	24 months
Certificate III in Drilling – Oil/Gas Off shore DRT30803 by direct entry	24 months	Certificate III in Drilling – Water Well DRT31103 when the trainee holds the Certificate II in Drilling – Water Well DRT21103	12 months
Certificate III in Drilling – Oil/Gas Off shore DRT30803 when the trainee holds the Certificate II in Drilling – Oil/Gas Off shore DRT20803	12 months	Certificate IV in Drilling – Water Well DRT41103 by direct entry	30 months
Certificate IV in Drilling – Oil/Gas Off shore DRT40803 by direct entry	30 months	Certificate IV in Drilling – Water Well DRT41103 when the trainee holds the Certificate III in Drilling – Water Well DRT31103	12 months
Certificate IV in Drilling – Oil/Gas Off shore DRT40803 when the trainee holds the Certificate III in Drilling – Oil/Gas Off shore DRT30803	12 months	or until achievement of the relevant competencies to this Vocational Training Order is demonstrated.	
Certificate II in Drilling – Oil/Gas On shore DRT20903	12 months	(ii) Part-time	
Certificate III in Drilling – Oil/Gas On shore DRT30903 by direct entry	24 months	School based traineeships	
		In the case of school based part-time traineeships, trainees will undertake a minimum of 100 days on-the-job training across a twenty-four (24) month period within which trainees shall be required to demonstrate competencies relevant to the Vocational Training Order.	
		While at school, training may extend to sixty (60) months where the Higher School Certificate is being delivered over a five (5) year period.	

Students may work full-time during school vacations and/or weekends. They are not required to attend on-the-job and/or off-the-job training for more than one (1) day per week during examination periods or exam preparation periods.

#### Non school based traineeships

The nominal term for a part-time traineeship is determined by the average weekly hours worked in the traineeship (including structured training) and the nominal full-time term for that traineeship.

The table below identifies the allowable hours which may be undertaken and the nominal terms for part-time traineeships.

Full-time Traineeship Term	6 mths	12 mths	18 mths	24 mths	30 mths	36 mths	48 mths
Weekly Hours	Nominal Term Required (Months)						
15	15	30	45	Not Allowable			
16	15	29	44	Not Allowable			
17	14	28	42	Not Allowable			
18	14	27	41	Not Allowable			
19	13	26	39	Not Allowable			
20	13	25	38	Not Allowable			
21	12	24	36	48	Not Allowable		
22	12	23	35	46	Not Allowable		
23	11	22	33	44	55	Not Allowable	
24	11	21	32	42	53	Not Allowable	
25	10	20	30	40	50	60	Not Allowable
26	10	19	29	38	48	57	Not Allowable
27	9	18	27	36	45	54	72
28	9	17	26	34	43	51	68
29	8	16	24	32	40	48	64
30	8	15	23	30	38	45	60
31	Not Allowable		22	28	35	42	56
32	Not Allowable		20	26	33	39	52

#### (b) Competency Outcomes

Trainees will be trained in and achieve competence in the units of competence specified in the Drilling Industry Training Package DRT03.

#### (c) Courses of Study to be undertaken

Trainees will undertake the following courses of study:

- Certificate II in Drilling – Environmental DRT20103
- Certificate III in Drilling – Environmental DRT30103
- Certificate IV in Drilling – Environmental DRT40103

- Certificate II in Drilling – Foundation/Construction DRT20203
- Certificate III in Drilling – Foundation/Construction DRT30203
- Certificate IV in Drilling – Foundation/Construction DRT40203
- Certificate II in Drilling – Geotechnical DRT20303
- Certificate III in Drilling – Geotechnical DRT30303
- Certificate IV in Drilling – Geotechnical DRT40303
- Certificate II in Drilling – Trenchless Technology DRT20403
- Certificate III in Drilling – Trenchless Technology DRT30403
- Certificate IV in Drilling – Trenchless Technology DRT40403
- Certificate II in Drilling – Mineral Exploration DRT20503
- Certificate III in Drilling – Mineral Exploration DRT30503
- Certificate IV in Drilling – Mineral Exploration DRT40503
- Certificate II in Drilling – Mineral Production and Development DRT20603
- Certificate III in Drilling – Mineral Production and Development DRT30603
- Certificate IV in Drilling – Mineral Production and Development DRT40603
- Certificate II in Drilling – Blast Hole DRT20703
- Certificate III in Drilling – Blast Hole DRT30703
- Certificate IV in Drilling – Blast Hole DRT40703
- Certificate II in Drilling – Oil/Gas Off shore DRT20803
- Certificate III in Drilling – Oil/Gas Off shore DRT30803
- Certificate IV in Drilling – Oil/Gas Off shore DRT40803
- Certificate II in Drilling – Oil/Gas On shore DRT20903
- Certificate III in Drilling – Oil/Gas On shore DRT30903
- Certificate IV in Drilling – Oil/Gas On shore DRT40903
- Certificate II in Drilling – Seismic DRT21003
- Certificate III in Drilling – Seismic DRT31003
- Certificate IV in Drilling – Seismic DRT41003
- Certificate II in Drilling – Water Well DRT21103
- Certificate III in Drilling – Water Well DRT31103
- Certificate IV in Drilling – Water Well DRT41103

#### AVAILABILITY FOR INSPECTION

A copy of the Vocational Training Order may be inspected at any State Training Centre of the Department of Education and Training or on the Internet at <http://apprenticeship.det.nsw.edu.au>

**CHARITABLE TRUSTS ACT 1993**

Settlement of a Cy-Pres Scheme for the Application of Trust Property at the Graythwaite Hospital Site.

TAKE notice that the Supreme Court of New South Wales has made a declaration pursuant to section 9 Charitable Trusts Act 1993 (NSW) that the original purposes of the charitable trust of the property known as "Graythwaite", presently the site of the Graythwaite Hospital, between Edward Street and Union Street, North Sydney, have ceased to provide a suitable and effective method of using the trust property having regard to the spirit of the trust.

Having made that declaration the Supreme Court has also ordered that the Trust property be applied cy prè and that a scheme be settled for that purpose.

The Graythwaite property was given to the State of New South Wales in perpetuity by its then owner, Thomas Allwright Dibbs, in 1915 for use as a convalescent home for injured soldiers and sailors and, failing that, as a convalescent home for distressed subjects of the British Empire. In that latter role Graythwaite has operated as an aged care facility since 1980. That use has been held to be inconsistent with the terms of the trust.

Any person or entity wishing to bring forward a scheme should appear at the next listing of the proceedings before the Supreme Court for Directions at 12 noon on Monday 12 November 2007 in Court 9C, Law Courts Building, Queen's Square, Sydney. Schemes formulated on the basis that the property be sold should address how the proceeds of the sale should be applied.

Anyone doing so should first file a Notice of Appearance in the Registry of the Supreme Court.

Any person proposing a scheme should also file an affidavit containing or annexing an outline of the proposed scheme in the Registry of the Court in advance of the Directions Hearing listed for 12 November 2007. Copies of that affidavit should also be served on the following parties:

1. The State of New South Wales and Northern Sydney Central Coast Area Health Service c/- Teece Hodgson Ward, Solicitors, 1 Chifley Square, Sydney (DX 562 Sydney)
2. The Attorney-General for the State of New South Wales c/- The Crown Solicitor, GPO Box 2727, Sydney NSW 2000
3. North Sydney Council, c/- Mallesons Solicitors, Level 61 Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000

The judgment given in these proceedings, Northern Sydney and Central Coast Area Health Service v Attorney-General for New South Wales [2007] NSWSC 881 (14 August 2007) can be found at <http://www.lawlink.nsw.gov.au/scjudgments> or via <http://www.austlii.edu.au>.

RICHARD MATTHEWS,  
Deputy Director General,  
New South Wales Department of Health

**CONTAMINATED LAND MANAGEMENT ACT 1997**

## Section 21

Declaration of remediation site

Declaration Number 21107 / Area Number 3238

THE Environment Protection Authority (EPA) declares the following land to be a remediation site under the Contaminated Land Management Act 1997 ("the Act").

## 1. Land to which this declaration applies ("the site")

All that land described as Lot 21 in DP 546045 on the corner of Brisbane Street and Cobra Street, Dubbo in the local government area of the City of Dubbo, New South Wales.

## 2. Nature of contamination affecting the site:

The EPA has found that the site is contaminated with the following substances ("the contaminants"):

- Benzene, Toluene, Ethylbenzene and Xylene (BTEX); and,
- Petroleum Hydrocarbons (TPH).

## 3. Nature of harm that the contaminants may cause:

The EPA has considered the matters in section 9 of the Act and for the following reasons has determined that the site is contaminated in such a way as to present a significant risk of harm to human health and the environment:

- The groundwater has been degraded by dissolved phase and separate phase hydrocarbon contamination at concentrations significantly exceeding relevant guideline levels;
- The contamination includes benzene, a known human carcinogen, and is potentially toxic to humans and aquatic organisms if there are exposures to human or aquatic receptors;
- The contamination is likely to migrate offsite in groundwater; and,
- There are potential exposure pathways to the contamination through use of groundwater in the region and to human/ecological receptors in the Macquarie River.

## 4. Further action under the Act

The making of this declaration does not prevent the carrying out of a voluntary remediation of the site and any person may submit a voluntary remediation proposal for the site to the EPA. If the proposal satisfies the requirements of section 26 of the Act, the EPA may agree not to issue a remediation order to the person or persons bringing the proposal.

## 5. Submissions invited

The public may make written submissions to the EPA on:

- Whether the EPA should issue a remediation order in relation to the site; or
- Any other matter concerning the site.

Submissions should be made in writing to:

Acting Manager Contaminated Sites  
Department of Environment and Conservation  
PO Box A290  
Sydney South NSW 1232  
or faxed to 02 9995 5930

by not later than 20 September 2007.



Date: 22 August 2007.

NIALL JOHNSTON,  
A/Manager Contaminated Sites,  
Department of Environment and Conservation

**NOTE:**

Remediation order may follow

If remediation of the site or part of the site is required, the EPA may issue a remediation order under section 23 of the Act.

**Variation/Revocation**

This declaration may be varied by subsequent declarations. It remains in force until it is otherwise revoked. A declaration may only be revoked when the EPA does not have reasonable grounds to believe that land is contaminated in such a way as to present a significant risk of harm (section 44 of the Act).

**Information recorded by the EPA**

Section 58 of the Contaminated Land Management Act 1997 requires the EPA to maintain a public record. A copy of this remediation declaration will be included in the public record.

**Information recorded by councils**

Section 59 of the Act requires the EPA to give a copy of this declaration to the relevant local council. The council is then required to note on its planning certificate issued pursuant to section 149 (2) of the Environmental Planning and Assessment Act that the land is currently within a remediation site. The EPA is required to notify council as soon as practicable when the declaration is no longer in force and the notation on the section 149 (2) certificate is no longer required.

**Relationship to other regulatory instrument**

This declaration does not affect the provisions of any relevant environmental planning instruments which apply to the land or provisions of any other environmental protection legislation administered by the EPA.

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**CO-OPERATIVES ACT 1992**

**Change of Name**

IT is hereby notified that on 20 August 2007, I registered a change of name for Seventh Floor Co-operative Limited to Seven Wentworth Co-operative Limited.

Dated this 20th day of August 2007.

JANINE CROSS,  
Delegate of the Registrar of Co-Operatives

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**CORPORATIONS ACT 2001**

Notice Under Section 601AC of the Corporations Act 2001 as applied by Section 177 of the Co-Operative Housing and Starr Bowkett Societies Act 1998

NOTICE is hereby given that the Starr-Bowkett mentioned below will be deregistered when three months have passed since the publication of this notice.

Newtown and Enmore Starr-Bowkett Building Co-operative Society No. 22 Limited

Dated this twenty-eighth day of August 2007.

C. GOWLAND,  
Delegate of the Registrar of Co-Operatives

**CORPORATIONS ACT 2001**

Notice Under Section 601AC of the Corporations Act 2001 as applied by Section 177 of the Co-Operative Housing and Starr Bowkett Societies Act 1998

NOTICE is hereby given that the Starr-Bowkett mentioned below will be deregistered when three months have passed since the publication of this notice.

The Saint George Starr-Bowkett Co-operative Society  
No. 22 Section Limited

Dated this twenty-eighth day of August 2007.

C. GOWLAND,  
Delegate of the Registrar of Co-Operatives

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**DISTRICT COURT ACT 1973**

District Court Amendment (Criminal Procedure) Rule 2007 under the District Court Act 1973

THE District Court Rule Committee made the following rule of court under the District Court Act 1973 on 23 August 2007.

A. R. GREW,  
Secretary to the District Court Rule Committee

**Explanatory note**

The object of this rule is to amend Part 53 of the District Court Rules 1973 to:

- (a) substitute the word "subpoena" for the word "notice" being the last word in rule 20 (3); and
- (b) add the words "or thing" after the word "document" where appearing in rule 21 (b).

**1 Name of Rule**

This rule is the District Court Amendment (Criminal Procedure) Rule 2007.

**2 Amendment of District Court Rules 1973**

The District Court Rules 1973 are amended as set out in Schedule 1.

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**SCHEDULE 1**

**Amendment (Clause 2)**

**Part 53, rule 20**

Omit "notice" from rule 20 (3). Insert instead "subpoena".

**Part 53, rule 21**

Omit "document" wherever occurring in paragraph (b). Insert instead "document or thing".

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**GAME AND FERAL ANIMAL CONTROL ACT 2002**

Notification of suspension of Schedule 1 Conditions of NSW Game Hunting Licences

IN pursuance of the Game and Feral Animal Control Regulation 2004 the Game Council of NSW gives notice of the suspension of operations of provisions in Clauses 4, 5, 7 and 9 of Schedule 1 of the Game and Feral Animal Control Regulation 2004 on the following specified land for the control of game and feral animals: Red Deer – Cervus Elephus.

For the period 31/08/2007 until 31/08/2012.

Location: Breealong. Lots: 42 and 43, DP 1065403.

Approved by Game Council of NSW this 20th day of December 2006.

BRIAN BOYLE,  
Chief Executive Officer,  
For and on behalf of the Game Council of NSW

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### GAME AND FERAL ANIMAL CONTROL ACT 2002

Notification of suspension of Schedule 1 Conditions of  
NSW Game Hunting Licences

IN pursuance of the Game and Feral Animal Control Regulation 2004 the Game Council of NSW gives notice of the suspension of operations of provisions in Clauses 5, 7 and 9 of Schedule 1 of the Game and Feral Animal Control Regulation 2004 on the following specified land for the control of game and feral animals: Rusa Deer – *Cervus timorensis*.

For the period 31/08/2007 until 31/08/2012.

Location: Helensburgh. Lots: 01 and 02, DP 216627.

Approved by Game Council of NSW this 20th day of December 2006.

BRIAN BOYLE,  
Chief Executive Officer,  
For and on behalf of the Game Council of NSW

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### GEOGRAPHICAL NAMES ACT 1966

Notice of Amendment of Address Locality Boundaries  
within the Albury 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 amended address locality boundaries in the Albury City Local Government Area as shown on map GNB3729-2.

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](http://www.gnb.nsw.gov.au).

WARWICK WATKINS,  
Chairperson

Geographical Names Board,  
PO Box 143,  
Bathurst NSW 2795

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### GEOGRAPHICAL NAMES ACT 1966

Notice of Amendment Address Locality Names and  
Boundaries within the Maitland City Local Government  
Area

PURSUANT to the provisions of section 10 of the Geographical Names Act 1966, the Geographical Names Board has this day amended address locality boundaries in the Maitland City Local Government Area as shown on map GNB3548-1.

The amendments have enabled the creation of a new address locality called Chisholm.

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 web site at [www.gnb.nsw.gov.au](http://www.gnb.nsw.gov.au).

WARWICK WATKINS,  
Chairperson

Geographical Names Board,  
PO Box 143,  
Bathurst NSW 2795

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### GEOGRAPHICAL NAMES ACT 1966

Notice to Discontinue a Geographical Name

PURSUANT to the provisions of section 14 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it has this day discontinued the name below:

Discontinued Name:	Dark Brothers Cave
Assigned Name:	Dark Brother Cave
Designation:	Cave
L.G.A.:	Palerang Council
Parish:	Corang
County:	St Vincent
L.P.I. Map:	Endrick
1:100,000 Map:	Ulladulla 8927

WARWICK WATKINS,  
Chairperson

Geographical Names Board,  
PO Box 143,  
Bathurst NSW 2795

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### HEALTH ADMINISTRATION ACT 1982

Order Amending the Name of an  
Approved Quality Assurance Committee

PURSUANT to section 20E (1) of the Health Administration Act 1982, I, JOHN HATZISTERGOS, Acting Minister for Health, do by this order hereby amend the name of the "Ryde Hospital's Medical Review Committee" (approval published in the Government Gazette No. 146 of 13 December 1996) so that it is instead known as the "Clinical Review Committee of Ryde Hospital".

This order shall take effect on gazettal of this order.

Signed this sixteenth day of August 2007.

JOHN HATZISTERGOS,  
Acting Minister for Health

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### HUNTER WATER CORPORATION OPERATING LICENCE 2007-2012

Erratum

THE Hunter Water Corporation Operating Licence 2007-2012 published in *Government Gazette* No. 83 of 29 June 2007, folios 4258 to 4340, omitted two paragraphs of the Operating Licence as renewed by the Governor, being:

"3.7.4 Hunter Water must use its best endeavours to reach agreement with persons to whom Other Grades of Water is supplied. The terms of agreement for the supply of Other Grades of Water must include:

(a) the standard of the quality of the water supplied;

- (b) the purpose of the supply;
- (c) the continuity of the water supplied; and
- (d) the costs to be paid by the Customers for the supply of water to them.

3.7.5 Hunter Water must advise persons to whom Other Grades of Water is supplied, of the potential uses for the Other Grades of Water and of the requirement that Other Grades of Water must undergo water treatment if it is to be used as Drinking Water.”

This erratum now rectifies that error and the gazettal date remains 29 June 2007.

### LOCAL GOVERNMENT ACT 1993

#### Registration of a Political Party

IT is hereby notified that pursuant to the provisions of the Local Government Act 1993, the undermentioned political parties are registered:

Albury Citizens and Ratepayers Movement  
 The Australian Business Party  
 Clover Moore Independent Team  
 Manly Independents – Putting Residents First  
 Parramatta Better Local Government Party  
 The Parramatta Independents  
 Roads and Services Action Party  
 Wake Up Warringah  
 Woodville Independents

Dated: 27 August 2007.

COLIN BARRY,  
 Electoral Commissioner,

New South Wales Electoral Commission,  
 Level 25, 201 Kent Street,  
 Sydney NSW 2000

### NATIONAL PARKS AND WILDLIFE ACT 1974

#### Land Acquisition (Just Terms Compensation) Act 1991 Notice of Compulsory Acquisition

THE Minister for Climate Change, Environment and Water, with the approval of Her Excellency the Governor, declares that the leasehold estate in 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 National Parks and Wildlife Act 1974.

The leasehold estate is, on publication of this notice, vested in the Minister administering the National Parks and Wildlife Act 1974.

PHIL KOPERBERG, M.P.,  
 Minister for Climate Change, Environment and Water

#### SCHEDULE

All those pieces or parcels of land comprising the leasehold estate in Lot 34, DP 754329 and Lot 4, DP 1112933 situated in the Parish of Tuckland, County of Lincoln, Local Government Area of Warrumbungle and the leasehold estate in Lot 148, DP 750780 situated in the Parish of Yarrobil, County of Bligh, Local Government Area of Mid-Western Regional, containing a total area of 524.2 hectares. NPWS: 07/1432

### NATIONAL PARKS AND WILDLIFE ACT 1974

#### Land Acquisition (Just Terms Compensation) Act 1991 Notice of Compulsory Acquisition

THE Minister for Climate Change, Environment and Water, with the approval of Her Excellency the Governor, declares that the leasehold estate in 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 National Parks and Wildlife Act 1974.

The leasehold estate is, on publication of this notice, vested in the Minister administering the National Parks and Wildlife Act 1974.

PHIL KOPERBERG, M.P.,  
 Minister for Climate Change, Environment and Water

#### SCHEDULE

All that piece or parcel of land comprising the leasehold estate in Lot 1, DP 1111194 situated in the Parish of Moan, County of Bligh, Local Government Area of Upper Hunter, containing an area of 258.5 hectares. NPWS: 07/1478

### POISONS AND THERAPEUTIC GOODS ACT 1966

#### Order Under Clause 171 (1), Poisons and Therapeutic Goods Regulation 2002

#### Withdrawal of Drug Authority

IN accordance with the provisions of clause 171 (1) of the Poisons and Therapeutic Goods Regulation 2002 an order has been made on Dr Brent HUCKSTEPP of 80 Denison Street, Bondi Junction 2022, prohibiting him until further notice, as a medical practitioner from supplying or having possession of drugs of addiction as authorised by clause 101 of the Regulation and issuing a prescription for a drug of addiction as authorised by clause 76 of the Regulation.

This order is to take effect on and from 24 August 2007.

DR RICHARD MATTHEWS,  
 Acting Director-General

Department of Health, New South Wales,  
 Sydney, 20 August 2007.

### PORTS AND MARITIME ADMINISTRATION ACT 1995 (NSW)

#### Land Acquisition (Just Terms Compensation) Act 1991 Notice of Compulsory Acquisition of Land for the Purposes of the Ports and Maritime Administration Act 1995 (NSW)

THE Minister for Ports and Waterways by his 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 Ports and Maritime Administration Act 1995 (NSW).



Dated at Sydney, this 17th day of August 2007.

CHRIS OXENBOULD, A.O.,  
Chief Executive, Maritime Authority of NSW  
a duly authorised delegate  
of the Minister for Ports and Waterways

SCHEDULE

1. All that piece or parcel of Crown land situated in the Bega Valley Shire Local Government Area, Parish of Kiah, County of Auckland being Lots 6 and 8 in Deposited Plan 1066187.
2. All that piece or parcel of land situated in the Bega Valley Shire Local Government Area, Parish of Kiah, County of Auckland being Lots 3, 4, 5, 7, 9 and 10 in Deposited Plan 1066187 (which is said to be in the possession of South East Fibre Exports Pty Limited).

But excluding the interests in land created by the following registered dealings:

- 7965442
- 9031133
- 9903911
- T410735
- J874075

**PORTS AND MARITIME ADMINISTRATION  
ACT 1995 (NSW)**

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land for the  
Purposes of the Ports and Maritime Administration  
Act 1995 (NSW)

THE Minister for Ports and Waterways by his 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 Ports and Maritime Administration Act 1995 (NSW).

Dated at Sydney, this 17th day of August 2007.

CHRIS OXENBOULD, A.O.,  
Chief Executive, Maritime Authority of NSW  
a duly authorised delegate  
of the Minister for Ports and Waterways

SCHEDULE

All that piece or parcel of Crown land situated in the Bega Valley Shire Local Government Area, Parish of Kiah, County of Auckland being Lot 101 in Deposited Plan 1095252 having an area of 16.84 square hectares or thereabouts excluding interests in land created by dealings registered on title numbered 7965442, 9031131 and 9903911.

**RURAL FIRES ACT 1997**

Local Bush Fire Danger Period Variation

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 17 September until 30 September 2007.

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 firebreaks.

DOMINIC LANE, A.F.S.M.,  
Acting Assistant Commissioner,  
Acting Executive Director,  
Operations and Regional Management

**SYDNEY HARBOUR FORESHORE AUTHORITY  
ACT 1998**

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land for the  
Purposes of the Act

THE Sydney Harbour Foreshore Authority 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 Sydney Harbour Foreshore Authority Act 1998.

Dated at Sydney, this 28<sup>th</sup> day of August 2007.

R. D. LANG,  
Sydney Harbour Foreshore Authority

SCHEDULE

All that piece of land situated at the Parish of St. Andrew, County of Cumberland, being Lot 1 in Deposited Plan 439245 and Lots 1 and 2 in Deposited Plan 1089643 and described in Auto Consol 15060-206.

**AUSTRALIAN MUSEUM TRUST ACT 1975**

Deaccessioning of items from the collection of the Australian Museum

HER Excellency the Governor, with the advice of the Executive council has approved, pursuant to section 9 of the Australian Museum Trust Act 1975, the deaccessioning of the items listed in Schedule 1

FRANK SARTOR, M.P.,  
Minister for the Arts

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.69884	Leather holster for gun	No licence required	Australian Historic [ref register]
E.74029	Long large bore percussion sporting gun barrel London proof marks rusted all over, poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-64 UNKNOWN MAKER single shot percussion gun barrel in .75 bore, 38" barrel converted from flintlock to percussion by drum and nipple method [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Remains of the long barrel percussion duck gun circa. 1855. Popular from the 1830s to the 1900s. Value \$A 25.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74030	German GE.W 98 bayonet dated 1917. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. E-09	No licence required	German manufacture. Standard German 1st War issue infantry bayonet. Value \$A 150.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74031	British pattern 1853 socket bayonet. Heavy rust and pitting to blade and socket. Very poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. E-10	No licence required	English manufacture. Saw extensive issue to all Australian colonies from 1853 to 1880. Value \$A 15.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74032	English Brown Bess Bayonet in overcleaned condition. [ref G.R. Casselden, Valuer, 6/2000]	No licence required/antique	English manufacture. The standard issue bayonet for the Brown Mess musket would have seen extensive use in Australia from 1788 to 1845. This example dating circa 1810. Value \$A 65.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74033	Model 08/15 G.W.F Spandau machine gun in good condition. Museum permit required in NSW. Calibre 7.92mm. [ref G.R. Casselden, Valuer, 6/2000]	NSW Firearms Registry License REQUIRED	German manufacture. Standard 1st War German machine gun captured by the 30th Batt. A.I.F. at Morlancourt April 1918 as inscribed on coolant jacket. Value \$A 3,200.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74035	French model 1822T flintlock musket with shortened barrel to finish 200mm above lower barrel band. Calibre .69. Otherwise in good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-42 FRENCH Model 1777 flintlock musket in .69 bore, single shot, 20.5" barrel. Converted to a coach gun during its working life, see markings index [ref Firearms Technology Museum, 6/2002]	No licence required/antique	French manufacture. This model was the standard issue musket to French infantry from 1825 to 1840. No associated Australian history. Value \$A 300.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74036	North Indian matchlock long barrel jesail with bone inlays to stock. Stock broken through at wrist. In poor condition. Calibre .60. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-43 INDIAN? single shot matchlock gun in .625 bore, 45" barrel [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Indian manufacture. These types of weapons were extensively used in northern India during the 19th century. This example would date circa. 1850. Value \$A 125.00 [ref G.R. Casselden, Valuer, 6/2000]

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74037	North Indian percussion long barrel jesail with bone and silver inlays some missing and British East India Co. lock fitted. Calibre .60. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-44 INDIAN GESAIL single shot percussion gun in .625 bore, 36.5" barrel [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Indian manufacture. Melbourne Ward purchased from Ormsby. Used by Northern Indian tribesmen during the 19th century. This example dating circa. 1870. Value \$A 250.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74038	Shortened pattern 1853 rifle musket for cadets. Lock marked Enfield 1859. Top barrel band missing. Metal work rusted and dry rot in stock. Calibre .577. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-45 ENFIELD model 1859 single shot percussion rifle in .577, 28" barrel. Marked on trigger guard NSW, marked on butt GS (gov stores), marked on butt cap tang A959 (A may be an arrow) [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. This arm is one of a number shortened for use of NSW school cadets in the late 1870s. Butt tang No. A.959. Value \$A 300.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74039	English half stocked octagonal barrel percussion sporting rifle. No visible maker's name. Stock broken through around lock area. Calibre .57. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-46 ENGLISH single shot percussion rifle in .625 bore, 30" barrel Manufactured circa 1830, colonial style repair using brass plate [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. This type of rifle was popular in most Australian colonies as a hunting rifle and saw use from the late 1830s to the 1870s. This example dating circa. 1858. Value \$A 180.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74040	English single barrel percussion shotgun in 14 gauge missing hammer, ramrod thimbles, rammer and cracked stock. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-47 Single shot percussion shotgun in 12 gauge, 30.5" barrel. No retailer [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. This standard muzzle loading farm gun from the 1830s to the 1900s in all Australian colonies. This example would date circa. 1870s. Value \$A 50.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74041	British India pattern flintlock musket converted to sporting half stock percussion shotgun. Missing hammer and rammer. Calibre .75. In fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-48 ENGLISH (TOWER) single shot percussion gun, 39" barrel. No retailer. Converted from flintlock, brass furniture [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. A good example of a colonial gunsmith's conversion of a flintlock musket into a percussion sporting gun. Conversion date circa. 1830. Value \$A 250.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74042	English single barrel percussion shotgun by "J O'Mayne" in 14 gauge. Missing butt plate, ramrod, hammer and stock borer riddled. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-49 J.O. MAYNE single shotgun in 10 gauge, 28.5" barrel. No retailer [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. The standard farm shotgun from the 1830s to 1900 in all Australian colonies. This example would date circa 1870. Value \$A 50.00 [ref G.R. Casselden, Valuer, 6/2000]

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74043	United States made Winchester model 1892 rifle with octagonal barrel, half magazine, calibre 32/20. Missing some screws. Serial No.112943. In fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-50 WINCHESTER Model 92 lever action sporting rifle in .32W CF, serial No. 112943, 6 round magazine, 24" barrel. Manufactured in 1896, Half magazine [ref Firearms Technology Museum, 6/2002]	NSW Firearms Registry License REQUIRED	American manufacture. The standard Australian centre fire farm rifle from 1892 to the 1940s. This example made in 1896. Value \$A 225.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74044	English Martini small action sporting rifle in .420 rook calibre. Retailed by "C Cowles Sydney". In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-51 TRANTER single shot hinged breech rook rifle in .450 CF, serial No.20459, 26" barrel. Retailed by C. Cowles Sydney NSW. Round barrel with top flat, Braendlin marked [ref Firearms Technology Museum, 6/2002]	NSW Firearms Registry License REQUIRED	English manufacture. This type of rifle was popular on farms and stations in Australia before the 1890s as a hunting rifle. This example dating circa 1885. Value \$A 350.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74045	Flintlock India pattern musket barrel converted to percussion ignition by "The London Gunmakers Co". Calibre .75. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-52 ENGLISH flintlock ground fixed musket, Barrel only, London proofed [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Remains of flint musket converted to percussion between 1850 and the 1860s. Value \$A 20.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74046	United States made Winchester model 1873 octagonal barrel full magazine repeating rifle in 44/40 calibre. Serial No.295645.13. Missing dust cover and butt plate, metal rusty and stock with dry rot. In fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-53 WINCHESTER Model 73 lever action sporting rifle in 44.40 CF, serial No.295645B, 12 round magazine, 24" barrel. Manufactured in 1889, Full magazine [ref Firearms Technology Museum, 6/2002]	Licence required	American manufacture. This model was a popular repeating rifle in Australia from 1879 to 1900. This example was made in 1889. Value \$A 300.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74047	German Model 98A carbine calibre 7.92mm. Receiver ring marked Erfurt 1917. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-54 MAUSER model Kar 98a carbine in 7.92 MM CF, serial No.2113, 5 round magazine, 23.62" barrel, turned down bolt handle, stock cut to provide clearance for grasping handle, hook on lower side of fore-end is for stacking, lug on front sight is for muzzle cover and also for a 6.5" long flash hider, there is no provision for a cleaning rod [ref Firearms Technology Museum, 6/2002]	NSW Firearms Registry License REQUIRED	German manufacture. The standard German issue carbine to artillery during World War I. Value \$A 375.00 [ref G.R. Casselden, Valuer, 6/2000]; Made at Erfurt arsenal in 1917, adopted in 1908 as Kar 98 carbine and officially designated carbine 98a later after other model 98 carbines were introduced, the "a" does not appear on the weapon, issued to German artillery units. [ref Firearms Technology Museum, 6/2002]

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74048	Italian "Carcano" bolt action carbine in 6.5mm carcano calibre. In very good condition with folding bayonet. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-55 MANNLICHER CACARNO Model 1891 in 6.5 MM CF, serial No.D6955, 18" barrel, Permanently attached folding bayonet, Developed at the Italian government arsenal at Turin by M. Carcano. Is actually a modified mauser with a mauser type bolt. The magazine is fixed mannlicher type fed with a six round clip which stays in the magazine until the last round is chambered. Made at Terni arsenal and marked "AT35 XIV". Tangent rear sight sighted to 1500 metres fitted with auxiliary battle sight [ref Firearms Technology Museum, 6/2002]	NSW Firearms Registry License REQUIRED	Italian manufacture. Standard issue to Italian troops requiring a carbine E.G artillery and transport during WWII. This example circa. 1940. Value \$A 120.00 [ref G.R. Casselden, Valuer, 6/2000]; Developed at the Italian government arsenal at Turin by M. Carcano. Is actually a modified mauser with a mauser type bolt. The magazine is fixed mannlicher type fed with a six round clip which stays in the magazine until the last round is chambered. Made at Terni arsenal and marked "AT35 XIV".[ref Firearms Technology Museum, 6/2002]
E.74049	United States made Winchester model 1866 repeating musket in .44 rim fire calibre. Serial No. 32570. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-56 WINCHESTER Model 1866 lever action musket in .44 RF, serial No.32570, 17 round magazine, 27" barrel, manufactured in 1870 [ref Firearms Technology Museum, 6/2002]	No licence required/antique	American manufacture. This rifle was purchased in the early 1870s by the Turkish Government as a military rifle. Most examples encountered in Australia were brought back as war trophies after WW1. Value \$A 3,500.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74050	British Martini Enfield MK1 rifle converted from Martini Henry rifle MKIII in 1895 to .303 calibre. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-57 MARTINI ENFIELD Model 1895 ME 303 in .303 CF, single shot, 30" barrel. Butt disc marked NSW/99/16, marked Enfield 1881 on frame [ref Firearms Technology Museum, 6/2002]	NSW Firearms Registry License REQUIRED	English manufacture. This rifle was purchased by the N.S.W. Government in October 1899 and issued to the N.S.W. volunteers. These rifles saw extensive service in Australia. Value \$A 300.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74051	United States made Spencer repeating carbine. Barrel and action frame. Calibre .56 rim fire. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-58 SPENCER Carbine, 20" barrel, barrel and action only [ref Firearms Technology Museum, 6/2002]	No licence required/antique	American manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. Spencer carbines were issued to Victorian police and N.S.W. police in 1867 through to the late 1870s in very limited numbers. Value \$A 50.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74052	English double barrel percussion shotgun I. Hollis and sons 13 gauge. Missing hammers, ramrod, metal rusted, stock borer holed. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-78 HOLLIS double barrel percussion shotgun in 12 gauge, 30" barrels, No retailer [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. A popular brand of percussion double barrel gun in the Australian colonies from the 1860s to 1900. This example would date circa 1880. Value \$A 120.00 [ref G.R. Casselden, Valuer, 6/2000]



<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74054	English air gun missing components, butt, air tank covering, sight and various screws. Calibre .54 approx. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-60 EUROPEAN? single shot air rifle in .450, 27" barrel. Manufactured circa 1820. No retailer. Pump up reservoir in butt. Made to look like a flintlock gun [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. These early air guns were popular for indoor shooting gallery and target use specimen collecting and poaching in Britain and the colonies. This example dating circa 1825. Value \$A 350.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74055	U.S. made colt percussion revolving carbine. Calibre .56 No. 10052. Comprising of barrel, action frame, cylinder and mechanism cylinder loading lever. All other parts missing. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-61 COLT percussion carbine, 5 shot, 20.5" barrel, barrel and action only [ref Firearms Technology Museum, 6/2002]	No licence required/antique	American manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. These Colt revolving carbines saw limited issue and use in N.S.W. and Victoria from the 1860s to the 1880s. Ned Kelly carried one. This example dating circa 1859. Value \$A 500.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74056	North African miquelet lock long barrel gun with ivory butt plate and stock inlays. Calibre .60. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-66 NORTH AFRICAN single shot flintlock gun 47" barrel. No retailer [ref Firearms Technology Museum, 6/2002]	No licence required/antique	North African manufacture. A type used by North African tribal nomads up until 1900. This example dating circa 1870. Value \$A 750.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74058	Confederate States made rifle musket. Locked marked 1863 across the tail C.S. Richmond Virginia ahead of the hammer. Calibre .58. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-62 AMERICAN CONFEDERATE STATES percussion rifle, single shot, 39" barrel. Manufactured circa 1863, Marked C.S. RICHMOND VA [ref Firearms Technology Museum, 6/2002]	No licence required/antique	American manufacture. This arm was manufactured by the Confederate states and used during the American civil war 1861-1865. Value \$A 4,000.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74059	English sea service pattern 1842 rifled musket lock marked Enfield 1854. Calibre .75. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-63 ENFIELD pattern 1842 single shot sea service rifled musket in .758, 29.4" barrel. Sighted to 1000 yards, No.30 stamped on woodwork and buttcap, brass furniture [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Issued to Royal Navy ships for arming boarding and shore parties. On issue from 1853 to 1865. Saw limited use in N.S.W. and Victoria. Value \$A 1,600.00 [ref G.R. Casselden, Valuer, 6/2000]; Introduced for naval issue in 1852
E.74060	English "Padgets" flintlock cavalry carbine with captive rammer calibre .67. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-77 PAGET flintlock cavalry carbine in .66 bore, single shot, 15.5" barrel, equipped with a swivel mounted ramrod, side bar and ring fitting [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Issued to the British Light Dragoons and Cavalry from 1810 to the late 1830s. Saw limited use in the Australian colonies. Value \$A 2,400.00 [ref G.R. Casselden, Valuer, 6/2000]; Manufactured circa 1810. named after General Sir Henry Paget, introduced for cavalry service about 1808 and was the primary arm for mounted troops for 30 years [ref Firearms Technology Museum, 6/2002]

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74061	Japanese matchlock musket calibre .60 approx in excellent condition. [ref G.R. Casselden, Valuer, 6/2000]	NSW Firearms Registry License REQUIRED	Japanese manufacture. These ornate matchlocks were more for ceremonial use most being manufactured during the 19th century and most examples were brought to Australia as war trophies. Value \$A 1,800.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74063	Indo-Persian style long barrel matchlock jesail with fishtail butt calibre .60. [ref G.R. Casselden, Valuer, 6/2000]	NSW Firearms Registry License REQUIRED	Indo-Persian manufacture. This type of arm was used extensively by tribesmen in northern India and Afghanistan up until the 1900s. This example would date circa 1860. Value \$A 600.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74064	British flintlock iron barrel naval blunderbuss with provision for fold out bayonet (missing). Lock marked with George III cypher and tower. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]	NSW Firearms Registry License REQUIRED	English manufacture. This is one of the four known naval blunderbusses believed to be issued to Port Arthur Penal Settlement. Butt tang marked with Rack No. 5. Circa 1815. Value \$A 3,500.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74065	European (most likely French) flintlock rifle calibre .65 gold inlays to barrel silver wire inlays to stock. A high quality firearm in very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. L-65 EUROPEAN high quality single shot flintlock hunting rifle in .75 bore, 38" barrel. Gold inlaid damascus barrel, silver inlaid stock, circa 1765 [ref Firearms Technology Museum, 6/2002]	No licence required/antique	European (probably French) manufacture. A very ornate and finely made flintlock hunting rifle for use in Europe circa 1750. Unlikely to have any Australian association in the flintlock era. Value \$A 4,000.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74066	Large Belgian revolver rusted beyond further identification. Relic condition. [ref G.R. Casselden, Valuer, 6/2000]	Licence required	Belgian manufacture. Value \$A Nil [ref G.R. Casselden, Valuer, 6/2000]
E.74067	Small Belgian nickel plated open framed pin fire folding trigger revolver calibre 7mm. Very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-45 BELGIUN open frame pinfire revolver in 7 MM, 6 chamber, 3.25" barrel. ELG proof stamped, "DF->" stamped on frame, manufactured between 1877 and 1893, nickel plated, folding trigger, simple sliding extractor, parts marked "C 1", marked "AC" inside grips [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Belgian manufacture. Used as a house and pocket pistol for protection. Common during the last 30 years of the 19th century. This example dating circa 1870. Value \$A 225.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74068	American XL No.5 revolver nickel plated calibre .38. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-46 XL No.5 revolver in 380 RF, 5 chamber, 2.825" barrel, manufactured in America in 1890 [ref FTM 6/2002]	NSW Firearms Registry License REQUIRED	American manufacture. Used as a house and pocket pistol. Saw use from 1880 to the 1940s this example dating circa 1890. Value \$A 150.00 [ref G.R. Casselden, Valuer, 6/2000]; Manufactured in America in 1890 [ref Firearms Technology Museum, 6/2002]

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74069	Belgian made percussion centre hammer box lock pistol calibre .50. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-47 BELGIUM single shot percussion pistol in 10 MM, 3.125" barrel, Boxlock action, Turn off barrel, Marked internally with batch No. 11 [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Belgian manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. Popular during the gold rush period 1851-1865 as a cheap pocket pistol. This example dating circa 1865. Value \$A 195.00 [ref G.R. Casselden, Valuer, 6/2000]; manufactured 1840, Owned by an officer in the Australian Agricultural Company. Purch: Jas. R. Scott collection (A3897) [ref Firearms Technology Museum, 6/2002]
E.74070	English double trigger tranter percussion revolver in 54 bore calibre. Missing safety spring and various screws. Metal rusted. In fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-48 TRANTER 3rd model percussion revolver in 54 bore, 5 chamber, 6" barrel, Serial No ground off [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. These revolvers were popular with settlers and bushrangers from the 1880s. This example dating circa 1863. Value \$A 500.00 [ref G.R. Casselden, Valuer, 6/2000]; Tranter manufacture [ref Firearms Technology Museum, 6/2002]
E.74071	English double barrel percussion pistol by "Westley Richards" with captive rammer, chequered butt with silver escutcheon plate in .60 calibre. Very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-76 WESTLEY RICHARDS double barrel percussion pistol in .66 bore, 7.5" barrels, manufactured circa 1830, side by side round twist steel barrels, platinum vent plugs, half cock safety bolts and swivel ramrod, walnut stock with chequered grip and silver monogram [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. A large high quality pistol used by wealthier settlers from the 1840s to 1870. This example dating circa 1858. Value \$A 1,700.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74072	Belgian Flobert patent break barrel saloon pistol in 6mm rim fire calibre. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-49 BELGIUM single shot saloon pistol in 7 MM RF, 8.25" barrel, manufactured 1870 [ref Firearms Technology Museum, 6/2002]	NSW Firearms Registry License REQUIRED	Belgian manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. This type of pistol was used for indoor target and shooting gallery work. Popular from the mid 1850s to 1900. This example dating circa 1870. Value \$A 375.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74073	Belgian percussion centre hammer boxlock cannon barrel miners pistol calibre .60. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-78 BELGIUM single shot percussion pistol, 4.25" barrel, box lock action, cannon barrel 20 MM at mouth [ref FTM 6/2002]	No licence required/antique	Belgian manufacture. Known as a miner's pistol due to their popularity during the gold rush era and in common usage until 1900. This example dating circa 1865. Value \$A 225.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74074	Belgian percussion centre hammer boxlock cannon barrel miners pistol calibre .60. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-50 BELGIUM single shot percussion pistol, 4.25" barrel, box lock action, cannon barrel 20 MM at mouth, see markings index [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Belgian manufacture. Known as miner's pistol due to their popularity during the gold rush era and in common usage until 1900. This example dating circa 1865. Value \$A 225.00 [ref G.R. Casselden, Valuer, 6/2000]



<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74075	Belgian made medium size pinfire revolver by Me.Anton calibre 11mm pinfire. Missing main spring and lanyard ring. In good condition otherwise. [ref G.R. Casselden, Valuer, 6/2000]	NSW Firearms Registry License REQUIRED	Belgian manufacture. This type of revolver was reasonably popular in Australia from the late 1860s to 1900. This example being circa 1875. Value \$A 300.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74076	Large revolving barrel 5 shot percussion "pepperbox" pistol by "Chas Osborne London" with lions head butt mask. Calibre .54. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]	NSW Firearms Registry License REQUIRED	English manufacture. This is a high quality pistol and would have been used by the wealthier settlers in the Australian colonies from the 1840s to the mid 1860s. This example dating circa 1855. Value \$A 1,200.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74077	English percussion transitional type revolver with bar hammer of the T.K. Baker type. Calibre .42. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-74 BAKER transitional percussion revolver in 54 bore, 6 chamber, 5" barrel, manufactured circa 1840 [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. This style of revolver was widely used in Australia from 1850 to 1870. This example dating circa 1855. Value \$A 375.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74078	English percussion travelling pistol by "W. Jones". Side hammer box lock with belt hook missing. Captive rammer calibre .60 in fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-51 W. JONES (ENGLISH) single shot percussion belt pistol in .75 bore, 4.5" barrel. , Belt clip fitted, converted from flintlock? [ref FTM 6/2002]	No licence required/antique	English manufacture. A pistol used from 1840 to 1870s in Australia. This example dating circa 1850. Value \$A 200.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74079	Large English percussion travelling pistol. Back action lock, no maker's name, calibre .60. Missing ramrod and thimble. Fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-52 ENGLISH single shot percussion dueling pistol in .625 bore, 8.75" barrel, manufactured circa 1830, Birmingham proofed. Back action lock [ref FTM 6/2002]	No licence required/antique	English manufacture. A pistol popular in Australia from 1840 until the 1870s. This example dating circa 1860. Value \$A 275.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74080	English percussion centre hammer box lock pocket pistol, calibre .50. Missing various screws. Fair condition only. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-53 DANISH single shot boxlock percussion pistol in .75 bore, 3" barrel, manufactured circa 1850, Turn off barrel [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. A cheap quality box lock pistol popular during the gold rush era 1851 to 1865. This example dating circa 1855. Value \$A 120.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74081	English percussion double barrel pocket pistol by "Field", calibre .50. Missing captive rammer. In fair condition only. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-54 FIELD (ENGLAND) double barrel percussion pistol in .4375 bore, 3.5" barrel, Marked Field London, manufactured circa 1855, captive rammer [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Melbourne Ward received by donation from an old lady in Medlowbath, NSW. A pistol that saw wide spread use in Australia during the gold rush era 1851 to 1865. This example dating circa 1860. Value \$A 225.00 [ref G.R. Casselden, Valuer, 6/2000]; Marked Field London, manufactured circa 1855 [ref Firearms Technology Museum, 6/2002]

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74082	English percussion back action lock travelling pistol, calibre .60 with captive rammer and modern made and fitted crude belt hook. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-77 ENGLISH single shot percussion pistol in .75 bore, 7" barrel. Back action lock, retailers mark too worn to read [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. This style of pistol saw use in Australia from 1840 to 1870, this example dating circa 1860. Value \$A 500.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74083	English percussion four barrel "pepper box" pistol on "Pennels Patent" calibre .45. Metal has medium pitting. Fair condition only. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-55 PENNEL (ENGLAND) percussion revolver in 54 bore, 6 chamber, 7.25" barrel, manufactured 1853 [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. These types of pistols were popular in Australia from 1840 to 1860 as cheaper multi shoot arm. This example dating circa 1855. Value \$A 350.00 [ref G.R. Casselden, Valuer, 6/2000]; manufactured 1853 [ref Firearms Technology Museum, 6/2002]
E.74084	English percussion Beaumont Adams revolver in 54 bore manufactured by the London Armoury Co. Missing trigger guard and hammer. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-56 BEAUMONT ADAMS percussion revolver in 54 bore, 5 chamber, 5.75" barrel. Retailled by London Armoury [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. A very popular revolver in Australia during the bushranger period 1862 to 1880. This example dating circa 1863. Value \$A 375.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74085	Russian flintlock horse pistol calibre .65 with no provision for ramrod. Missing top jaw and screw to cock. Some light rusting otherwise in good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-57 RUSSIAN single shot flintlock service pistol in .5625 bore, 9.5" barrel, manufactured circa 1815 [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Russian manufacture. This pistol is of late flintlock period issued to Imperial Russian Cavalry and used up until the Crimea. This example dating circa 1830. Value \$A 750.00 [ref G.R. Casselden, Valuer, 6/2000]; manufactured circa 1815 [ref Firearms Technology Museum, 6/2002]
E.74086	English flintlock belt pistol brass barrel and furniture. Engraving to lock. No visible maker's name. Calibre .58. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-58 HENSHAW single shot flintlock pistol in .5625 bore, 8" barrel. Marked William Henshaw gunmaker Strand London, brass barrel, manufactured circa 1770 [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Melbourne Ward acquired from the collection of the late H. J. Ward. A flintlock pistol in common use as a belt or holster pistol with early settlers to NSW and Tasmania. From 1800 to 1830. This example dating circa 1820. Value \$A 1,100.00 [ref G.R. Casselden, Valuer, 6/2000]; manufactured circa 1770 [ref Firearms Technology Museum, 6/2002]
E.74087	Turkish/Middle Eastern flintlock short blunderbuss, wire inlay to stock, brass inlay to barrel. Calibre 1½ inch flare at muzzle. In good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-59 TURKISH? single shot blunderbuss in .59 bore, 10" barrel, Lock appears to be cast, may have been made for tourists. Silver inlaid stock brass inlaid barrel [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Turkish (?) manufacture. A cheap Middle East 19th century tourist blunderbuss. Most came to Australia as souvenirs from Palestine after World War I. This example dating circa 1890. Value \$A 375.00 [ref G.R. Casselden, Valuer, 6/2000]; may have been made for tourists, as it is physically un-shootable [ref Firearms Technology Museum, 6/2002]

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74088	English flintlock brass barrel travelling pistol. Brass lock and furniture, calibre .58. Damaged stock to fore end. Missing rammer. Fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-60 ENGLISH single shot flintlock pistol in .5625 bore, 9.5" barrel [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. This type of pistol saw use in early colonial Australia from 1788 to 1830 this example dating circa 1795. Value \$A 250.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74089	English percussion revolver "Dean Adams & Dean" in 54 bore calibre. Barrel shortened and missing butt cap and screws. Rusting to metal. In poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-61 ADAMS model 1851 percussion revolver in 54 bore, 5 chamber, 4.5" barrel. Retailled by Deane Adams & Deane Eng [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. These early English percussion revolvers saw use in Australia from 1851 to 1870. This example dating circa 1853. Value \$A 200.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74090	English flintlock brass barrelled holster pistol by "W.M. Perry London" with silver mountings missing frizzen spring, calibre .56. In very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-75 PERRY single shot flintlock belt pistol in .56 bore, 7" barrel. Marked William Perry Eng, manufactured circa 1778, Brass barrel, silver furniture [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. A good quality pistol used by the more wealthy settlers in NSW and Tasmania from 1788 to 1830. This example dating circa 1780. Value \$A 1,600.00 [ref G.R. Casselden, Valuer, 6/2000]; Marked William Perry Eng, manufactured circa 1778. Perry gunmaker of Birmingham circa 1776, appears to have marked all his guns London [ref Firearms Technology Museum, 6/2002]
E.74091	Prussian large percussion horse pistol iron mounted calibre .70 in very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-62 ENGLISH? single shot percussion in .75 bore, 9" barrel, marked "M" in a circle on strap opposite lock [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Prussian manufacture. Prussian horse pistol for issue to Cavalry from 1840 to 1860. No Australian associations. This example dating circa 1852. Value \$A 500.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74092	Austrian large percussion horse pistol iron mounted calibre .65. Missing nose cap and rammer. In fair condition only. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-63 EUROPEAN single shot percussion pistol in .75 bore, 9" barrel [ref Firearms Technology Museum, 6/2002]	No licence required /antique	Austrian manufacture. Austrian horse pistol for issue to Cavalry from 1845 to 1868. No Australian associations. This example dating circa 1848. Value \$A 350.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74093	English flintlock light Dragoon pattern pistol lock marked edge 1759 calibre .65. Missing top jaw and screw stock broken under lock. In fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-64 EDGE (ENGLISH) single shot, tower pattern flintlock pistol in .6875 bore, 9" barrel, marked 1759 [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. This pistol was the standard British Light Dragoon issue from 1770 to 1820 and would have seen use in the Australian colonies. This example dating 1759. Value \$A 400.00 [ref G.R. Casselden, Valuer, 6/2000]

<i>AM Reg No.</i>	<i>Description of Item Including Condition</i>	<i>Licence Requirement</i>	<i>Provenance / Historical Significance / Value</i>
E.74094	Belgian open frame pin fire revolver with folding trigger in 7mm pinfire calibre. Good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-65 BELGIUM open frame pinfire revolver in 7 MM, 6 chamber, 3.5" barrel. ELG proof stamped, manufactured before 1877, folding trigger, marked on the frame with a crown over PE, serial No.3099AV marked inside grips [ref FTM 6/2002]	No licence required/antique	Belgian manufacture. This type of pocket revolver was popular in Australia from the 1790s to 1910. This example dating circa 1880. Value \$A 200.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74095	German flare pistol with 9 inch barrel, calibre 1 inch approx In fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-66 GERMAN single shot flare pistol in 28 MM bore, serial No. 22337, 9" barrel [ref Firearms Technology Museum, 6/2002]	Licence required	German manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. Standard 1st War German signal/flare pistol dating circa 1915. Value \$A 200.00 [ref G.R. Casselden, Valuer, 6/2000]
E.74098	English percussion "Coopers Patent" revolving barrel pepperbox pistol calibre .45. Missing hammer, trigger and barrel rotation mechanism. Poor condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-69 ENGLISH? pepperbox percussion revolver in .5 bore, 4 chamber, 5" barrel. , Coopers or Minuette patent? [ref Firearms Technology Museum, 6/2002]	No licence required/antique	English manufacture. Melbourne Ward purchased from Jas. R. Scott, Cessnock, NSW. Popular type of pepper box from 1845 to 1870 in Australia. This example dating circa 1855. Value \$A 70.00 [ref G.R. Casselden, Valuer, 6/2000]; From Eureka Stockade [ref register]
E.74099	Belgian revolving pin fire pistol/carbine model 54 with detachable metal frame shoulder stock calibre 11mm, barrel length 16 inches. Very good condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-70 LEAFAUHEX model 1854 pinfire revolver in 12 MM, 6 chamber, 16" barrel, marked "Systeme Leafauhex" on top of barrel, one of 250 revolvers made for the Egyptian cavalry. Fitted with leaf rear sight, shoulder stock and attachment chain, marked "LF1053" on side of frame and "113" on other side of frame, this being either an issue number or armory rack number, internal parts marked "74P" and "31E", see markings index [ref Firearms Technology Museum, 6/2002]	No licence required/antique	Belgian manufacture. An unusual type of firearm which saw very limited use in Australia between 1868 and 1880. This example dating circa 1868. Value \$A 1,600.00 [ref G.R. Casselden, Valuer, 6/2000]; One of 250 revolvers made for the Egyptian cavalry. [ref Firearms Technology Museum, 6/2002]
E.90200	English percussion box lock pocket pistol Birmingham make calibre .45. Replacement hammer. Fair condition. [ref G.R. Casselden, Valuer, 6/2000]; FTM NO. H-71 ENGLISH single shot boxlock percussion pistol in 54 bore, 3" barrel, Turn off barrel [ref Firearms Technology Museum, 6/2002]; Police # 0014275	No licence required/antique	English manufacture. A common type of cheap pocket pistol popular during the gold rush era 1851 to 1865. This example dating 1855. Value \$A 350.00 [ref G.R. Casselden, Valuer, 6/2000]

**CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999**

JAMES JACOB SPIGELMAN, A.C., Lieutenant Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant Governor of the State of New South Wales, with the advice of the Executive Council, and pursuant to section 226 (4) of the Crimes (Administration of Sentences) Act 1999, hereby revoke the proclamation of the Metropolitan Periodic Detention Centre published in the Government Gazette on 1 July 2005, in so far as that proclamation declared the Metropolitan Periodic Detention Centre to be a periodic detention centre.

This proclamation is to take effect on and from 29 August 2007.

Signed and sealed at Sydney, this 29th day of August 2007.

By His Excellency's Command.

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

GOD SAVE THE QUEEN!

The effect of this Proclamation is that the Metropolitan Periodic Detention Centre remains proclaimed as a correctional centre but ceases to be a periodic detention centre on and from 29 August 2007.

**CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999**

JAMES JACOB SPIGELMAN, A.C., Lieutenant Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant Governor of the State of New South Wales, with the advice of the Executive Council, and pursuant to section 226 of the Crimes (Administration of Sentences) Act 1999, do by this Proclamation declare the area comprised within the boundaries hereunder (together with all buildings or premises which are now or may hereafter be erected thereon), and which was declared to be a correctional centre pursuant to section 225 of the said Act by proclamation published in the Government Gazette on 1 July 2005, to be a periodic detention centre within the meaning of the Crimes (Administration of Sentences) Act 1999, to be known as the Metropolitan Periodic Detention Centre and I further declare that the general manager of Parramatta Correctional Centre is to be responsible for the Metropolitan Periodic Detention Centre, viz:

All that piece or parcel of land situate in the local government area of Parramatta City, Parish of Field of Mars and County of Cumberland, being part of Lot 2, Deposited Plan 734689 shown by dark shading on Plan Catalogue Number 53713 in the Department of Commerce Plan Room and reproduced hereunder, and having an area of 6,739 square metres or thereabouts.

This proclamation is to take effect on and from 4.00 pm on Friday 14 September 2007.

Signed and sealed at Sydney, this 29th day of August 2007.

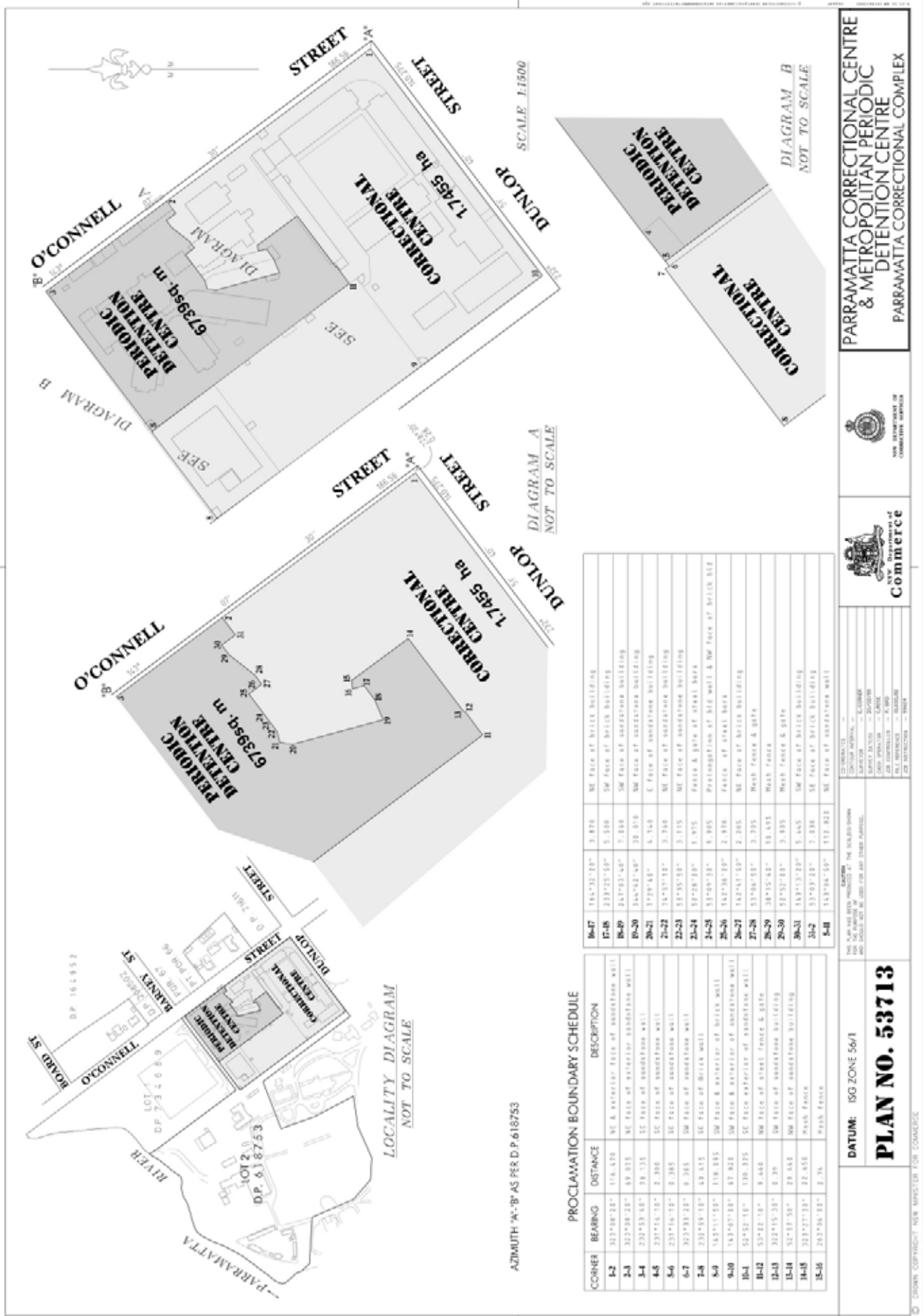
By His Excellency's Command,

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

GOD SAVE THE QUEEN!

The effect of this Proclamation is that the Metropolitan Periodic Detention Centre (which ceased to be a periodic detention centre on 29 August 2007) is again proclaimed as a periodic detention centre from 4.00 pm on 14 September 2007. For the intervening period, the Metropolitan Periodic Detention Centre is subject only to the proclamation published in the Gazette on 1 July 2005 that declared it to be a correctional centre.





PARRAMATTA CORRECTIONAL CENTRE & METROPOLITAN PERIODIC DETENTION CENTRE  
 PARRAMATTA CORRECTIONAL COMPLEX



Department of Commerce

LEGEND:  
 - CORNER  
 - EXTERIOR FACE OF MASONRY WALL  
 - EXTERIOR FACE OF BRICK WALL  
 - INTERIOR FACE OF MASONRY WALL  
 - INTERIOR FACE OF BRICK WALL  
 - MESH FENCE  
 - GATE

THIS PLAN HAS BEEN PREPARED BY THE SURVEYOR GENERAL'S OFFICE FOR THE PURPOSES OF THE PROCLAMATION ACT 1908 AND THE PROCLAMATION ACT 1933.

**PLAN NO. 53713**

DATE: 15/02/07

**TOW TRUCK INDUSTRY ACT 1998**Maximum Charges for Towing, Salvage and Storage of Motor Vehicles  
Not Having a Gross Vehicle Mass in Excess of 4 Tonnes

Effective from 1 September 2007

This schedule of maximum charges revokes any previous schedule.

UNDER section 54 of the Tow Truck Industry Act 1998 (the Act), the maximum charges for towing, salvage and storage of any accident towing work and the recovery of stolen motor vehicles anywhere in NSW are as follows:

**(1) TOWING****(A) Sydney – Newcastle – Wollongong Areas**

On business days during business hours (8am to 5pm Mon to Fri excluding public holidays) in Sydney, Newcastle and Wollongong area as defined by the TTA:

The Maximum Charge

- |      |   |             |
|------|---|-------------|
| i.   | For any accident towing work  | \$205.00    |
| ii.  | For towing work for recovered stolen vehicles                       | \$187.00    |
| iii. | For each subsequent tow   | \$72.00     |
| iv.  | For each tow undertaken in excess of 10km via the most direct route | \$4.80 / km |
| v.   | A surcharge outside business hours of                               | 20%         |

**(B) Other Area**

On business days during business hours (8am to 5pm Mon to Fri excluding public holidays) in the other area:

The Maximum Charge

- |      |   |             |
|------|---|-------------|
| i.   | For any accident towing work  | \$205.00    |
| ii.  | For towing work for recovered stolen vehicles                       | \$187.00    |
| iii. | For each subsequent tow   | \$72.00     |
| iv.  | For each tow undertaken via the most direct route in excess of 20km | \$2.40 / km |
| v.   | A surcharge outside business hours of                               | 20%         |

Toll charges incurred may be charged in addition to the above schedule of fees

NOTE: All the above listed charges exclude any applicable GST.

**(2) SALVAGE**

For salvage operations involving the recovery of a motor vehicle involved in an accident, which is still within the vicinity proximate to the crash

- i. For the certified driver of the tow truck at the rate of \$49.00 per hour, proportional to the time taken in excess of 30 minutes actually required for salvage operations.
- ii. For an assistant, if required, at the rate of \$49.00 per hour, proportional to all the time involved.
- iii. For an additional tow truck (including the driver) used in the salvage operation, at the rate applicable for the first tow truck.
- iv. A surcharge outside business hours at a rate of 20%

Salvage involves the recovery of a motor vehicle from an area other than a road or road related area as defined under the Road Transport (General) Act 1999.

**(3) STORAGE**

For storage within an authorised holding yard (as specified on the licensee's schedule) following the towing of a motor vehicle involved in an accident/crash and still within the vicinity of the accident/crash:

- i. For the first 72 hours No charge
- ii. After the first 72 hours \$15.00 maximum per day

Storage commences when the motor vehicle towed is at the holding yard, and at the time details of the motor vehicle are recorded in an "Approved Holding Yard Register".

NOTE: All the above listed charges exclude any applicable GST.

**NOTES**

The maximum charge for the towing work are all inclusive and include:

1. All activities required to undertake the towing work
2. Waiting time at the crash location
3. Cleaning of all glass / debris from the crash location relating to the motor vehicle towed
4. Cleaning the tow truck including any fluid leaks or spills from the vehicle being towed
5. Disconnection of a battery, if required
6. Reasonable phone calls required to secure the towing work

7. All administration charges including
  - i. Any photographs required,
  - ii. All documents pertaining to the tow, whether faxed or posted (i.e. invoice for payment, towing authorisation and contact details),
  - iii. Notifying the owner of the motor vehicle in writing of applicable storage fees
8. Relocation / removal of the vehicle to an accessible position in the holding yard for release
9. Any other requirement to comply with the Act or Regulations

Any charge for any work or expense deemed by the operator to require a charge above that as listed MUST be itemised on the invoice. These MUST be listed as an incurred expense not on a generic basis and MUST be able to undergo audit probity.

Therefore, a receipt, account or photograph is required by the Tow Truck Authority (TTA), vehicle owner and insurance company to identify and justify any excess charge. If no documentation can be produced to substantiate the work no additional fee can be charged. In all cases the expense charged MUST not exceed the expense incurred (eg. If invoiced for crane to assist with salvage for \$80, you can only bill the customer \$80)

Any time standing at the location of a crash, including awaiting Police / Emergency Services permission to remove a motor vehicle, by towing, is NOT a separate charge but is included in the total charge for the towing work.

If two or more vehicles are carried simultaneously on a subsequent tow, any applicable excess kilometre fee or applicable toll can only be applied to one vehicle. No fees are applicable for towing work which is undertaken in accordance with any direction of a police officer or an authorised officer to move a motor vehicle that is causing an unreasonable obstruction to the nearest place where it no longer causes an obstruction. A towing authorisation is not required for such towing work in accordance with such a direction. A towing authorisation is required for any subsequent towing work.

For tows conducted in the Other Area the tow charge includes kilometres travelled for both the journey to the scene of the accident and then to the destination specified on the towing authority. For tows conducted in the Defined Areas (Sydney, Newcastle, Wollongong) the tow charge includes kilometres travelled from the scene of the accident to the destination specified on the towing authority only.

Operators must comply with the following:

1. Any invoice for towing, salvage and storage work MUST be in accordance with that as stated herein,
2. If any salvage work exceeds 30 minutes, a minimum of 2 photographs of the incident, clearly showing the position of the motor vehicle being salvaged MUST accompany the invoice, and be provided with the claim for salvage fees,
3. The owner, driver or their authorised representative MUST be provided access, free of charge, during business hours, to collect the motor vehicle or to retrieve personal possessions from the motor vehicle. If access is required outside business hours the owner / driver or their authorised representative is to be advised verbally and in writing of any applicable fees prior to such access being provided,
4. All operators MUST display a clearly visible sign in the operator's office and holding yard advising of any ongoing charge for storage after 72 hours,
5. In the event that a police officer or authorised officer is the signatory of the towing authorisation copies of the towing authorisation and tow fee quotation must be provided to the Officer signing for forwarding to the owner/driver of the motor vehicle. The owner, driver MUST be provided an estimate of all charges and advised of the storage fee of \$15 per day
6. No demand will be made to insurance companies for a cash only payment for vehicle collection. All operators are to ensure that vehicles to be collected by an insurer are placed in an easily accessible location upon payment for all towing, salvage, storage charges and any other itemised expense that are deemed to be within the charges as stated herein,
7. Any charge levied outside the Schedule of Maximum Charges MUST be justified. Any additional charges:
  - i. MUST be unique, and relate to the towing/salvage/storage of the said vehicle
  - ii. can only be for what is clearly additional work to meet the requests of the user (whether insurer or vehicle owner)
  - iii. MUST be fully itemised with records (including receipts, invoices, photographs or accounts) to be kept at the operators premises (refer clause 65 – Tow Truck Industry Regulation 1999)
  - iv. cannot be levied on a generic basis (eg a blanket \$25),
  - v. MUST be identified and itemised on an invoice (refer clause 65 – Tow Truck Industry Regulation 1999). These charges are to be explained to the owner / driver prior to the service being provided,
  - vi. Invoices / receipts / accounts MUST be itemised and made available if requested by the TTA, owner / driver or insurance company prior to or at time of settlement of an invoice.
8. Levies such as fuel levies can not be charged.



## DEFINITIONS

Accident damaged Motor vehicle means a motor vehicle unable to proceed for reasons other than mechanical and/or electrical break down.

Accident Towing Work means the towing or carrying of a motor vehicle that has been involved in a crash, from the site of the crash or within the vicinity proximate to the crash, by another motor vehicle.

Business Hours means the period commencing 8.00am and concluding 5.00pm on Business Day/s.

Business Day/s means Monday to Friday excluding Public Holidays.

Crash means a collision or impact involving a motor vehicle or motor vehicles where a motor vehicle or motor vehicles are damaged.

Defined Areas means the areas of Sydney, Newcastle and Wollongong as defined by the TTA and as shown on the attached map.

Motor vehicle means a light vehicle, with a mass not exceeding 4 tonnes gross vehicle mass.

Other Area means that area of N.S.W other than the Defined Areas.

Road means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.

Road related area means:

- (a) an area that divides a road, or
- (b) a footpath or nature strip adjacent to a road, or
- (c) an area that is open to the public and is designated for use by cyclists or animals, or
- (d) an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles, or
- (e) a shoulder of a road, or
- (f) any other area that is open to or used by the public and that has been declared by any other Act

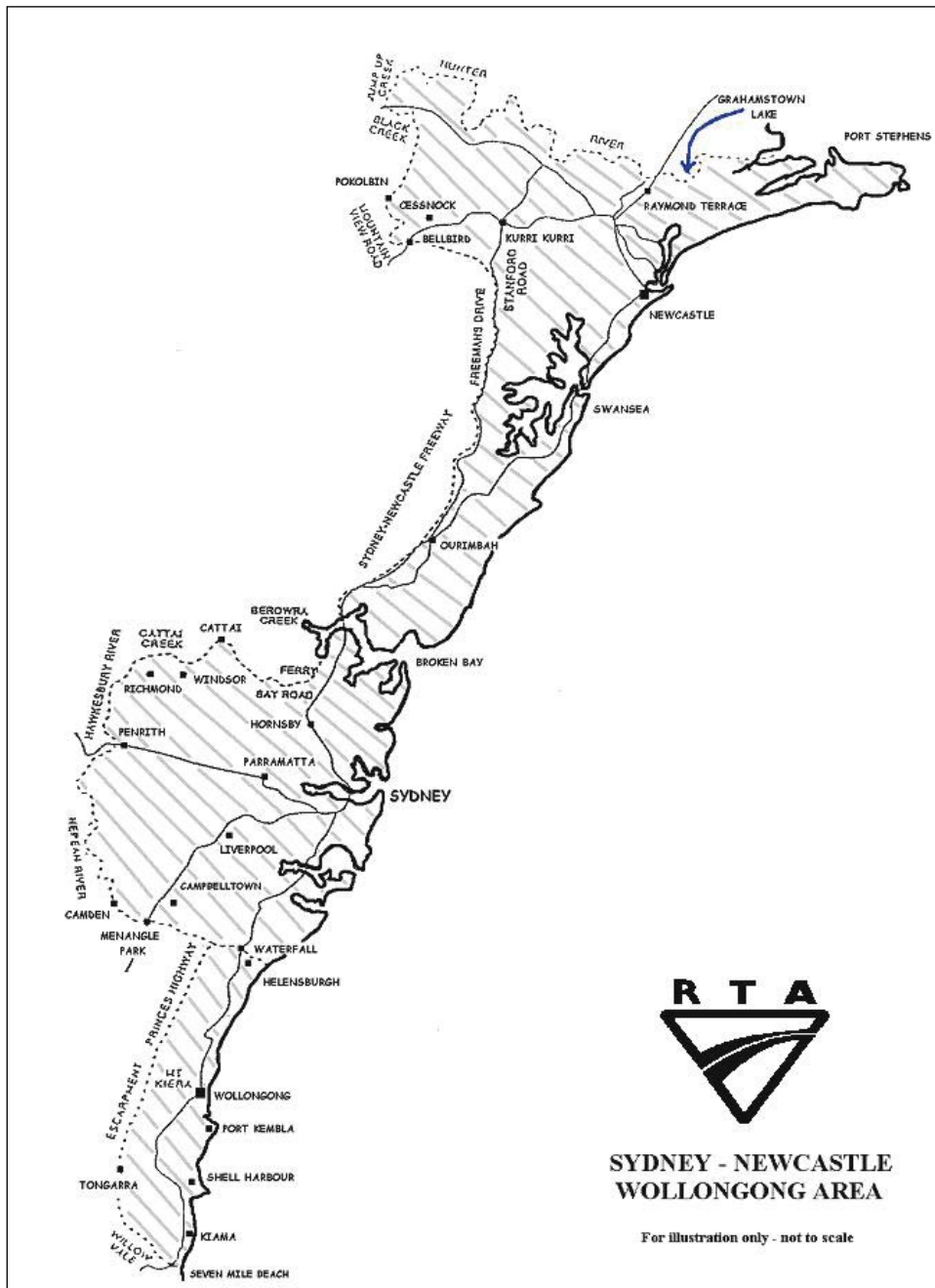
Salvage means the recovery of a motor vehicle from an area other than a road or road related area.

Storage means storage within an authorised holding yard specified on the licensee's schedule and in accordance with the Act.

Subsequent Tow means towing by the operator specified on the original towing authorisation from a place of storage or repair to a further destination.

Towing means all activities involved with the securing, loading and transporting of a motor vehicle with the exception of salvage and storage

NOTE: All motor vehicle accidents from which a motor vehicle is towed must be reported to the NSW Police, please ensure that you inform your customers of this requirement.





**Tow Truck Authority  
of New South Wales**

**HEAVY TOW TRUCK AND ASSOCIATED WORK AND EQUIPMENT  
CHARGES FOR ACCIDENT TOWING AND THE RECOVERY OF STOLEN  
VEHICLES AS FROM: 1 September 2007**

EQUIPMENT/SERVICE	APPLICABLE FEE	REMARKS
1. <b>Class 3 Conventional Tow Truck GCM 18 to 25 tonnes</b>	First Hour Accident: \$194 First Hour Stolen: \$176 Thereafter: \$121 per hour	Inclusive of all travelling costs.
2. <b>Class 4(A) Tow Truck GCM 25 to 45 tonnes</b>	First Hour Accident: \$209 First Hour Stolen: \$191 Thereafter: \$137 per hour	Inclusive of all travelling costs. Tow Truck must have dual rear axle
3. <b>Class 4(B) Tow Truck GCM 45 to 60 tonnes</b>	First Hour Accident: \$220 First Hour Stolen: \$202 Thereafter: \$148 per hour	Inclusive of all travelling costs. Tow Truck must have dual rear axle
4. <b>Class 4(C) Tow Truck GCM 60 + tonnes</b>	First Hour Accident: \$280 First Hour Stolen: \$262 Thereafter: \$208 per hour	Inclusive of all travelling costs. Tow Truck must have dual rear axle
5. <b>2<sup>nd</sup> Certified Driver</b>	\$49 per hour - for the period at the accident site.	
6. <b>For the cost of salvage operations after the first 30 minutes at the accident scene.</b>	\$66 per hour - excluding the use of oxy acetylene equipment.	Excludes the use of a tow truck. Includes the use of Air Bags and Air Jacks.
7. <b>Stand by rate.</b>	To be calculated at 50% of the hourly rate applying to the type of tow truck	Includes any additional labour and equipment.
8. <b>Administration/Site Co-ordination rate.</b>	\$49 per hour - for all site administration work.	Payable for one driver per accident/incident in relation to arranging the salvage of the load/freight.
9. <b>Surcharge for service outside business hours.</b>	50% surcharge payable on labour costs only outside business hours	Business hours are 7am-5pm Monday-Friday excluding Public Holidays.
10. <b>All additional equipment required to complete the tow/salvage/site recovery.</b>	As per substantiated invoice plus 10% gross on-cost only	Only applies if arranged and paid for by the tow truck operator.
11. <b>Locked storage following a tow from the scene of an accident, for the first 72 hours</b>	No charge.	Applies upon arrival at the tow truck operators <b>approved holding yard</b> .
12. <b>Storage after 72 hours.</b>	\$74 per day. Payable only where the vehicle is stored awaiting collection.	Not claimable if the vehicle is awaiting repair at a smash repairers business or holding yard.

**NOTE:** above listed charges exclude any applicable GST

TTLCP2 0907 A

**HEAVY TOW TRUCK CATEGORIES**

Class 3 Can tow vehicles with a mass not exceeding 12 tonnes. It must have a minimum GCM of 18 tonnes & must have lifting apparatus with a SWL of 5 tonne or more.

Class 4 Can tow vehicles with a mass exceeding 12 tonnes. It must have a minimum GCM of 25 tonnes & must have lifting apparatus with a SWL of 5 tonne or more.

N.B. Class 4 tow trucks must have a tandem rear axle group, a power operated winch & air brakes which can be connected to the brakes of the towed vehicle(s)

To work out what Class is appropriate to a particular vehicle, you need to establish its Load Capacity (i.e. GVM minus tare mass), its SWL and its GCM.

N.B. A tow truck cannot, under any circumstances, exceed its manufacturer's GCM when towing another vehicle.

Tow truck operators will:

- Attach at least two date-encrypted photographs to each invoice for towing/recovery work, which clearly show the accident scene before any recovery work has commenced.
- Invoice the owner/insurer, by providing all information stipulated in, and in accordance with clause 65 and clause 65A of the Tow Truck Industry Regulation 1999.

In the interests of providing quality service insurers should:

- Finalise payment of claims within 35 days of the date of the claim being lodged by the insured and accepted by the insurer.
- In cases where the claim by the insured has not been lodged, the insurer should notify the tow operator within 7 working days of receipt of the towing invoice.
- Upon receipt of an invoice provide written notification to the towing operator of the correct policy and claim number for the accident.
- Provide towing operators with expedient advice with respect to any clarification required or dispute concerning the claim. Ideally this should be within 10 working days of receipt of the claim.

Disputed claims:

- In circumstances where the insurer disputes or requires clarification as to a towing invoice the insurer should in the first instance consult with the towing operator. If the insurers concerns can not be adequately addressed the insurer should document any concerns and forward them to the towing operator.
- Both insurers and towing operators should then meet and attempt to resolve any issues of concern in relation to a claim.
- If any disputed claim for an accident based tow cannot be resolved between the towing operator and the insurer either party may contact the TTA in writing. Full details concerning the accident, the towing work undertaken, the claim for payment and the issues of concern must be provided.



**Tow Truck Authority  
of New South Wales**

**TTA Environmental Policy**

Licensed tow truck operators should:

- Adhere to all federal, state and local environmental agency regulations and codes of practice.
- Encourage a sense of environmental responsibility among all employees through training, education and communication.
- Dispose of waste in environmentally acceptable ways
- Pay particular attention to the storage and transport of Dangerous Goods, containment of run off from damaged vehicles held in holding yards and wash-down areas, and the safety and integrity of any storage containers used to hold liquid waste.
- Be mindful of the effect of heavy vehicles on the environment, and promote a policy of regular maintenance and monitoring of emissions for company vehicles.

**Guidelines for responsible action**

- Ensure that clean up of fluids from damaged vehicles at accident scenes occurs and is carried out by the appropriate party (vehicle owner, council, RTA etc) and if first to the scene take steps to stop fluid leaks from reaching drainage systems and/or report to the appropriate agency (EPA, Fire Brigade, Police etc)
- The Department of Environment and Climate Change (NSW) has advised that where small amounts of fluid waste are on the tray of a tow truck they can be mopped up with a rag which can then placed in a bin as solid waste provided the rags do not freely liberate the fluid once it has been absorbed.
- For large quantities of fluid the EPA and/or local government guidelines must be followed. The EPA can be contacted on 131555.
- Holding yard – prevent waste fluids from stored vehicles from entering drains.

***Effective from: 1 September 2007***

The Department of Environment and Climate Change (NSW) has published several fact sheets for small businesses. These can be viewed at: [http://www.environment.nsw.gov.au/for\\_industry.htm](http://www.environment.nsw.gov.au/for_industry.htm)

*For further information contact the EPA pollution line on 131 555 or your local council.*

TTLCP5 0807 B

## New Towing Authority Form – Instructions for use

From 1 September 2007 a new towing authorisation form will be introduced. From this date the new form **must** be used for tows conducted from the scene of a motor vehicle accident.

Books will be available with:

1. 20 forms per book, and
2. 5 forms per book.

The cost of the new towing authorisations has been incorporated in the new maximum tow fee to enable tow truck operators to recoup the cost of purchase.

### Page 1

Contains rights of the owner/driver and a quotation for towing services.

The quotation must be completed with all fees and charges explained to the motorist. This section is used when towing a motor vehicle not having a gross vehicle mass in excess of 4 tonnes only.

Tow truck drivers must sign and acknowledge that they have advised the owner/driver of their rights in relation to the towing work and provided an estimate of the subsequent charges

### Page 2

Found on the reverse of page 1 and contains information for consumers on their rights and responsibilities. Tow truck drivers must explain the contents to the motorist prior to signing the acknowledgement on page 1. Also contains contact details for major insurers

Page 1 & 2 are to be removed from the book and provided to the motorist.

### Page 3 to Page 5

The new towing authorisation form in triplicate, tow truck drivers must complete all applicable sections of the form (page 4 & 5 are carbon copies). Please ensure the cardboard insert is placed after the towing authorisation notice to ensure information is not transferred onto the following group of forms, rendering them illegible.

- Page 3 (white copy) is to be detached and provided to the motorist
- Page 4 (blue copy) is to be detached and forwarded to the tow truck operator
- Page 5 (pink copy) is to remain in the book

### Page 6

After completing the towing authorisation form tow truck drivers must complete all details on the towing notice (green sticker) and attach it to the motor vehicle to be towed.

### **PLEASE NOTE:**

A towing authorisation **must** be obtained **prior** to completing (in the approved manner), and attaching the towing notice (green sticker) to the motor vehicle to be towed. [see cl.43 of the Regulation] The maximum penalty is \$5500

The towing notice (green sticker) is now numbered the same as the towing authorisation and can only be used in conjunction with that authorisation so only complete and attach to the vehicle after authority to perform the tow has been obtained.

**Quotation for Towing Services**

**TA1-xxxxxxx**

Estimate only, invoice listing all charges provided on completion

ITEM	NUMBER	COST
*Base tow fee		
*Second tow fee (If Applicable)		
*Excess kilometres (If Applicable)		
*After hours surcharge <i>Outside of 8am to 5pm Mon to Fri excluding public holidays</i>	20%	
GST	10%	
<b>TOTAL</b>		

Storage Fees\*\* - per day after 72 hours

\* *Towing fees must not exceed the schedule of Maximum Tow Fees prescribed*  
 \*\* *Safe storage of your vehicle in an approved holding yard for the first 72 hours are at no cost, Storage fees after 72 hours must not exceed the schedule of Maximum Tow Fees prescribed*

**Rights – Owner / Driver of towed vehicle**

If you need a tow truck to assist you when you are involved in an accident, **you have the right to:**

- **decide where your vehicle will be towed**
- **decide who will tow your vehicle**
- **contact anyone prior to signing this form** for assistance on the right place to tow the vehicle to (contact numbers provided on the back of this page)
- **refuse to accept a tow for any reason** (eg. if the tow truck is not suitable)
- **Receive a copy of the towing authorisation form.**

*I acknowledge that I have advised the owner / driver of their rights in respect to this towing work, and that all charges for towing, storage and salvage have been explained.*

SIGNATURE  
(Tow Truck Driver)

DATE

TIME

**OWNER / DRIVER COPY**

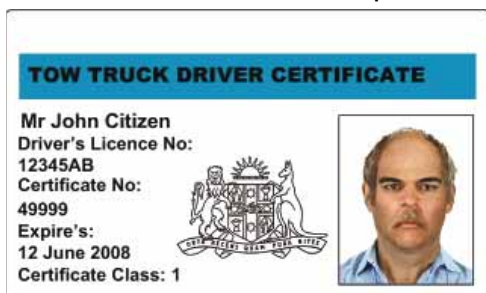


## Responsibilities - Owner / driver of towed vehicle

1. As the owner / driver your main responsibility is to authorise the tow truck driver to tow your vehicle and report the accident to the Police. This involves the **signing of a Towing Authorisation form**. Make sure that:
  - the place that you want your vehicle towed to is shown on the form and all other details are correct
  - the tow truck driver has filled out and signed the form and provided you with a copy to keep
  - all of the costs involved are explained to you (tow fee, excess km, salvage, storage and the surcharge outside business hours). A summary of the current maximum towing fees is available on the Authority's web site at [www.transport.nsw.gov.au/towtrucks](http://www.transport.nsw.gov.au/towtrucks):
  - You are advised **in writing** by the tow truck operator of any storage fees that may apply after 72 hours (the first 72 hours are free and included in the initial tow fee)
2. If your vehicle is covered by a comprehensive insurance policy, the towing fee may be covered in your claim. However, we suggest you check with your insurance provider (some contact numbers are provided below).
3. It is your right to choose who will tow the vehicle, where the vehicle will be towed to, and to authorise the tow truck driver to tow your vehicle. In certain circumstances where you are unable to give this authorisation, a Police Officer or other authorised officer will be able to authorise the towing of your vehicle. (An authorised officer will have a photo ID card)
4. If your vehicle needs to be towed you **must contact Police** and advise them of the accident

### Check your Driver's Credentials

All accredited tow truck drivers in NSW must have a driver certificate in their possession:



### Check the Tow Truck

A NSW based accident towing tow truck should have a "TT" number plate with 4 numbers before the "TT". An interstate tow truck will have a registration plate issued in their home state

1234 - TT

1234 - TT

**NOTE:** If this is not the case, do not allow the tow truck to tow your vehicle.

### Contact numbers for major insurers

**AAMI**

**13 22 44**

**Allianz** 

**131 000**

**NRMA**  
INSURANCE

**131 123**





Tow Truck Authority  
of New South Wales

Towing Authorisation Number:

TA1-xxxxxxx

Date/Time:

Operator Licence No:

Tow Truck Registration No:

### 1 TOW TRUCK OPERATOR / DRIVER DETAILS

Licensee Name:		Certificate No:
Address:		
Tow Truck Driver's Name (print):	Tow Truck Driver's Signature:	

### 2 VEHICLE OWNER/DRIVER DETAILS

Name:		Phone No:
Address:		
Registration No:	Make/Model of Vehicle:	Colour:

### 3 TOWING DETAILS

Towed From:	
Towed To:	
Second Tow Destination (only applicable if desired destination isn't accessible at time of first tow):	
I _____ (towed vehicle owner / driver) have been provided with a copy of my rights in respect to this towing work, and an estimate of the charges for towing, storage and salvage. I acknowledge that <b>this is the location I want the vehicle towed to</b> and authorise the towing of this vehicle. I also acknowledge that <b>I am required to report this accident to the Police within 24 hours.</b>	
Owner / Driver Signature:	Date / Time:

### 4 POLICE / AUTHORISED OFFICER AUTHORISATION

This authorisation has been completed and authorised by.		
Police / Authorised Officer Name / Number (print):	LAC:	
Capacity:	LAC Phone No:	Signature:

### 5 POLICE EVIDENTIARY / POLICE CONTRACT TOW AGREEMENT

I certify that the above mentioned vehicle is required to be towed under Police contract.	
Police / Authorised Officer Name / Number (print):	Signature:
POLICE TO PAY	Reason for owner to pay tow;
OWNER TO PAY	

If you have any concerns regarding the way this tow is conducted please contact us as soon as possible

**OWNER / DRIVER COPY**

Phone: (02) 8836 6200 Fax: (02) 8836 6266  
E-mail: [e-mail@towtrucks.nsw.gov.au](mailto:e-mail@towtrucks.nsw.gov.au)  
Mail: Locked bag 5054, Parramatta NSW 2124



Tow Truck Authority  
of New South Wales

Towing Authorisation Number:

TA1-xxxxxxx

Date/Time:

Operator Licence No:

Tow Truck Registration No:

### 1 TOW TRUCK OPERATOR / DRIVER DETAILS

Licensee Name:		Certificate No:
Address:		
Tow Truck Driver's Name (print):	Tow Truck Driver's Signature:	

### 2 VEHICLE OWNER/DRIVER DETAILS

Name:		Phone No:
Address:		
Registration No:	Make/Model of Vehicle:	Colour:

### 3 TOWING DETAILS

Towed From:	
Towed To:	
Second Tow Destination (only applicable if desired destination isn't accessible at time of first tow):	
I _____ (towed vehicle owner / driver) have been provided with a copy of my rights in respect to this towing work, and an estimate of the charges for towing, storage and salvage. I acknowledge that <b>this is the location I want the vehicle towed to</b> and authorise the towing of this vehicle. I also acknowledge that <b>I am required to report this accident to the Police within 24 hours.</b>	
Owner / Driver Signature:	Date / Time:

### 4 POLICE / AUTHORISED OFFICER AUTHORISATION

This authorisation has been completed and authorised by.		
Police / Authorised Officer Name / Number (print):	LAC:	
Capacity:	LAC Phone No:	Signature:

### 5 POLICE EVIDENTIARY / POLICE CONTRACT TOW AGREEMENT

I certify that the above mentioned vehicle is required to be towed under Police contract.	
Police / Authorised Officer Name / Number (print):	Signature:
POLICE TO PAY	Reason for owner to pay tow;
OWNER TO PAY	

If you have any concerns regarding the way this tow is conducted please contact us as soon as possible

**TOW TRUCK OPERATOR COPY**

Phone: (02) 8836 6200 Fax: (02) 8836 6266  
E-mail: [e-mail@towtrucks.nsw.gov.au](mailto:e-mail@towtrucks.nsw.gov.au)  
Mail: Locked bag 5054, Parramatta NSW 2124



Tow Truck Authority  
of New South Wales

Towing Authorisation Number:

TA1-xxxxxxx

Date/Time:

Operator Licence No:

Tow Truck Registration No:

### 1 TOW TRUCK OPERATOR / DRIVER DETAILS

Licensee Name:		Certificate No:
Address:		
Tow Truck Driver's Name (print):	Tow Truck Driver's Signature:	

### 2 VEHICLE OWNER/DRIVER DETAILS

Name:		Phone No:
Address:		
Registration No:	Make/Model of Vehicle:	Colour:

### 3 TOWING DETAILS

Towed From:	
Towed To:	
Second Tow Destination (only applicable if desired destination isn't accessible at time of first tow):	
I _____ (towed vehicle owner / driver) have been provided with a copy of my rights in respect to this towing work, and an estimate of the charges for towing, storage and salvage. I acknowledge that <b>this is the location I want the vehicle towed to</b> and authorise the towing of this vehicle. I also acknowledge that <b>I am required to report this accident to the Police within 24 hours.</b>	
Owner / Driver Signature:	Date / Time:

### 4 POLICE / AUTHORISED OFFICER AUTHORISATION

This authorisation has been completed and authorised by.		
Police / Authorised Officer Name / Number (print):		LAC:
Capacity:	LAC Phone No:	Signature:


### 5 POLICE EVIDENTIARY / POLICE CONTRACT TOW AGREEMENT

I certify that the above mentioned vehicle is required to be towed under Police contract.	
Police / Authorised Officer Name / Number (print):	Signature:
POLICE TO PAY	Reason for owner to pay tow;
OWNER TO PAY	

If you have any concerns regarding the way this tow is conducted please contact us as soon as possible

**RETAIN WITH BOOK**

Phone: (02) 8836 6200 Fax: (02) 8836 6266  
E-mail: [e-mail@towtrucks.nsw.gov.au](mailto:e-mail@towtrucks.nsw.gov.au)  
Mail: Locked bag 5054, Parramatta NSW 2124

<b>TOWING NOTICE</b>		<b>TA1-xxxxxxx</b>	
 Tow Truck Authority of New South Wales	<b>Date of Issue:</b>		<b>Time:</b>
	<b>Tow Truck Operator Name:</b>		
	<b>Tow Truck Operator Licence No:</b>		
<b>Tow Truck Registration No:</b>			<b>Driver Certificate No:</b>
<b>Registration No. of vehicle being towed:</b>			
<b>Full Address of where vehicle is to be towed:</b>			
<b>Name and signature of tow truck driver who obtained the completed towing authorisation:</b>			
<b>Name:</b>		<b>Signature:</b>	
<b>NOTE: this notice must be completed in full and attached to any motor vehicle towed as a result of an accident. The sticker must not be removed from the vehicle unless removed by:</b>			
<ol style="list-style-type: none"> <li>1. The insurer of the vehicle</li> <li>2. If not insured the owner/driver of the vehicle</li> <li>3. A person acting under written authority of a person referred to in (1) or (2)</li> </ol>			

**NOTE:** The towing notice must be completed in full and attached to the vehicle to be towed;

- after completing the towing authorisation form, and
- prior to undertaking the towing work

Please ensure the cardboard insert is correctly in place before completing the form and notice.



NSW Government  
Department of Water & Energy

*Best-Practice Management of  
Water Supply and Sewerage*

*Guidelines*

*August 2007*



*Best-Practice Management of  
Water Supply and Sewerage*

*Guidelines*

*August 2007*

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Water Utility Performance

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Executive Director  
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NEW SOUTH WALES

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**DISCLAIMER**

Whilst the Department of Water and Energy has taken due care in preparation of these guidelines, it accepts no liability for any errors or omissions, nor for any use of the guidelines by any person.

## Foreword

These *Guidelines for Best-Practice Management of Water Supply and Sewerage* have been published by the Minister for Water Utilities pursuant to section 409(6) of the *Local Government Act 1993*. The Minister for Local Government has concurred with these guidelines.

The guidelines encourage continuing improvement in performance and identify 6 criteria for best-practice management of water supply and sewerage. They also set out the outcomes local government Local Water Utilities (LWUs) need to achieve in order to be eligible for payment of a dividend from the surplus of their water supply or sewerage businesses.

LWUs which achieve the outcomes required by these guidelines will have effective and sustainable water supply and sewerage businesses and will have demonstrated best-practice management of these businesses as well as their compliance with *National Competition Policy* and the *National Water Initiative*.

Any local government LWU wishing to pay a dividend from the surplus of its water supply and sewerage businesses or seeking financial assistance under the Country Towns Water Supply and Sewerage (CTWS&S) Program must demonstrate its achievement of these outcomes through substantial compliance with these guidelines for each of the 6 criteria.



## Best-Practice Management of Water Supply and Sewerage Guidelines



## Acknowledgements

These *Guidelines for Best-Practice Management of Water Supply and Sewerage* have been prepared by the Department of Water and Energy. The valuable contributions of the Department of Local Government, the Local Government Association of NSW and Shires Association of NSW (LGA and SA), the NSW Local Government Water Industry Directorate and a number of Local Water Utilities (LWUs) are gratefully acknowledged.

## Best-Practice Management of Water Supply and Sewerage Guidelines



### Executive Summary

The NSW Government encourages best-practice by all NSW Local Water Utilities (LWUs). The purpose of best-practice management is:

- to encourage the effective and efficient delivery of water supply and sewerage services; and
- to promote sustainable water conservation practices and water demand management throughout NSW.

The NSW Government is required to demonstrate compliance with the Australian Government's *National Competition Policy* and *National Water Initiative*. The approach adopted since 1995 is to progressively encourage best-practice management by LWUs to ensure effective, efficient and sustainable water supply and sewerage businesses.

Demonstrated best-practice management is therefore a pre-requisite for payment of a dividend from the surplus of a local government LWU's water supply and sewerage businesses and for financial assistance under the CTWS&S Program.

There are six (6) criteria, each of which must be complied with to qualify for a dividend payment. These are:

1. Strategic Business Planning
2. Pricing (including Developer Charges, Liquid Trade Waste Policy and Approvals)
3. Water Conservation
4. Drought Management
5. Performance Reporting
6. Integrated Water Cycle Management

To be eligible to make a dividend payment from a surplus, an LWU must:

- Demonstrate best-practice management compliance through an independent compliance audit report; and
- Obtain an unqualified financial audit report for its water supply and/or sewerage business(es).
- Resolve in a council meeting open to the public that it has achieved "substantial compliance" with each criterion in these guidelines (pages 21, 34). The required outcome for each criterion is set out in column (3) of Table 1 on page 22.

LWUs that demonstrate best-practice management by achieving the outcomes required by these guidelines will have effective and sustainable water supply and sewerage businesses.

Pursuant to section 409 (5) of the *Local Government Act (1993)*, a dividend may be paid after the end of each financial year commencing in 2003/04.

**Best-Practice Management of Water Supply and Sewerage Guidelines**



## Best-Practice Management of Water Supply and Sewerage Guidelines



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## Best-Practice Management of Water Supply and Sewerage Guidelines



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## Best-Practice Management of Water Supply and Sewerage Guidelines



# PART A BEST-PRACTICE - PRINCIPLES

## 1 Introduction

### 1.1 Background

In June 2007 there are 107 non-metropolitan Local Water Utilities (LWUs) in NSW, providing water supply and sewerage services to 1.8 million people. 99 of these LWUs are general purpose local government councils, 5 are county councils providing water

#### 2007 NSW Non-metropolitan Local Water Utilities (LWUs)

- 107 LWUs in NSW
- Serve 1.8 million people
- Annual turnover \$870M
- Current replacement cost of assets \$11,700M

supply and/or sewerage services and 3 are bulk suppliers. For the 2005/06 financial year, the LWUs had a total turnover of \$870M and an asset base with a current replacement cost of \$11,700M. 60 of these LWUs (56%) were Category 1 businesses under *National Competition Policy*, having an annual turnover of over \$2M for their water supply or sewerage businesses.

The core function of LWUs is the sustainable provision of water supply and sewerage services to the community. Best-practice management is fundamental to the effective and efficient delivery of these services.

The *2005/06 NSW Water Supply and Sewerage Performance Monitoring Report* shows that LWUs are continuing to perform well in comparison with the water utilities in other states of Australia. The Report also shows that LWUs have made good progress in moving to comply with best-practice, eg. for water supply, compliance at June 2006 was 83% for business and financial planning, 70% for pricing, 91% for performance reporting, 57% for water conservation and 64% for drought management. 31% of LWUs have complied with all the required criteria. In addition, 27% of LWUs have at least commenced an Integrated Water Cycle Management (IWCM) strategy.

### 1.2 Compliance with Best-Practice

The NSW Government encourages best-practice for all LWUs. The purpose of best-practice management is:

- to encourage the effective and efficient delivery of water supply and sewerage services; and
- to promote sustainable water conservation practices and water demand management throughout NSW.

The NSW Government is required to demonstrate compliance with the Australian Government's National Competition Policy and the National Water Initiative. LWUs have been encouraged since 1995 to introduce best-practice management for water supply and sewerage businesses.

Compliance with the six best-practice criteria is mandatory for payment of a dividend from the surplus of an LWU's water supply and sewerage businesses

## Best-Practice Management of Water Supply and Sewerage Guidelines



(refer to Attachment 1 on page 31). Compliance with these criteria is also mandatory for financial assistance under the *Country Towns Water Supply & Sewerage (CTWS&S) Program*.

In addition, all LWUs are expected to complete preparation of a strategic business plan and long-term financial plan by June 2009. It is also expected that by that time all LWUs will have substantially complied with these guidelines.

### 1.3 Purpose of these Guidelines

Through the NSW Government's *Country Towns Water Supply and Sewerage Program*, sections 283 to 322 of the *Water Management Act 2000*, and sections 56 to 66 of the *Local Government Act 1993*, the Minister for Water Utilities is responsible for overseeing the performance of Local Water Utilities (LWUs) in:

*Providing appropriate, affordable and cost-effective water supply and sewerage services in urban areas of non-metropolitan NSW which meet community needs, protect public health and the environment and make best use of regional resources.*

In addition to meeting the requirements of the Australian Government's National Water Initiative, the guidelines reflect the NSW Government's policy in relation to the Application of National Competition Policy to Local Government<sup>1</sup> which states:

*"the Government supports the objects of the Local Government (NSW) Act 1993, which devolves to local councils significant responsibility for the conduct of their own affairs. The Government is confident that NSW councils are fully able to appreciate the significant efficiency gains and reduction in service costs that can flow from the adoption of competition reforms, and will be able to responsibly apply the Agreement for the benefit of their constituents and clients."*

The Department of Water and Energy has prepared these *Best-Practice Management of Water Supply and Sewerage Guidelines* pursuant to section 409(6) of the *Local Government Act 1993* (see 1.4 below). The Minister for Local Government has concurred with these guidelines.

The guidelines have been prepared to encourage continuing improvement in performance and identify criteria for best-practice management of water supply and sewerage.

These guidelines apply to all NSW LWUs, including the following utilities:

- Country Energy (Broken Hill area)
- State Water (Fish River Water Supply)
- Cobar Water Board
- Hawkesbury Council's sewerage business.

The first 3 utilities above are not local government councils and are not eligible to pay a dividend. Hawkesbury Council is the only metropolitan council responsible for provision of sewerage services.

<sup>1</sup> NSW Government Policy Statement on the Application of National Competition Policy to Local Government, June 1996

## Best-Practice Management of Water Supply and Sewerage Guidelines



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

The amendments to section 409 of the *Local Government Act 1993* are shown below. These amendments commenced on 1 November 2003.

- (5) Despite subsections (3) and (4), a council may:
  - (a) deduct, from the money required by subsection (3) to be used only for the specific purpose of water supply or sewerage services, an amount in the nature of a return on capital invested payment (dividend), and
  - (b) apply that amount towards any purpose allowed for the expenditure of money by councils by this Act or any other Act.
- (6) The Minister for Water Utilities, with the concurrence of the Minister administering this Act:
  - (a) is to cause guidelines to be prepared and published in the Gazette relating to the management of the provision of water supply and sewerage services by councils, and
  - (b) may, if of the opinion that a council has not substantially complied with the guidelines, direct the council to comply with any particular aspect of the guidelines before making any further deduction under subsection (5).
- (7) Before making a deduction under subsection (5), a council must:
  - (a) comply with the guidelines published under subsection (6) and any direction given under that subsection, and
  - (b) indicate in an open meeting of the council that the guidelines and any such direction have been complied with in relation to the making of the deduction.
- (8) Subsections (5)-(7) extend to a council that is a water supply authority within the meaning of the [Water Management Act 2000](#).

As at June 2007, the only councils that are water supply authorities under the *Water Management Act 2000* are Gosford and Wyong Councils.



**Best-Practice Management of Water Supply and Sewerage Guidelines**



## Best-Practice Management of Water Supply and Sewerage Guidelines



## 2 Best-Practice Management

### 2.1 Introduction

With increasing demands on the limited water resources of NSW, it is vital that these resources are managed in an efficient and sustainable manner.

Best-practice management is essential for efficient and sustainable management of water resources and the environment. It enables a Local Water Utility (LWU) to achieve sustainable water supply and sewerage businesses and comply with the Australian Government's *National Competition Policy* (NCP) and *National Water Initiative* (NWI).

LWUs that achieve the outcomes required by these guidelines will have demonstrated best-practice management of these businesses.

Best-practice management involves a triple bottom line focus that provides a balanced view of the long-term sustainability of NSW water utilities. Triple bottom line accounting (social, environmental and economic) involves consideration of an LWU's business plan together with its social and environmental management practices.

Best-practice management of water supply and sewerage involves the following 6 criteria:

- Strategic Business Planning
- Pricing (including Developer Charges, Liquid Trade Waste Policy and Approvals)
- Water Conservation
- Drought Management
- Performance Reporting
- Integrated Water Cycle Management

### 2.2 Best-Practice Criteria

#### 2.2.1 Strategic Business Planning

The community and governments are demanding increased accountability, increased levels of service and efficiency from water utilities. In addition, regulatory authorities are imposing more stringent environmental and health regulations. A Strategic Business Plan addresses these issues and provides a framework within which the LWU can provide these services in an efficient manner and can continue to improve its performance. The business plan must include an appropriate financial plan.

A strategic business plan is an LWU's principal planning tool for its water supply and sewerage businesses. The business plan should address key strategic issues facing the LWU including:

*The community and governments are demanding increased accountability, increased levels of service and efficiency.*

*A strategic business plan is an LWU's principal planning tool for its water supply and sewerage businesses. The business plan must include an appropriate financial plan.*

## Best-Practice Management of Water Supply and Sewerage Guidelines



### a) Operating environment review

This should be a review of the key external operating environment facing the LWU including:

- Customer demands in terms of current and forecast water and sewer backlog areas, forecast growth requirements and anticipated service standards.
- Shareholder and regulatory requirements (environmental, OH&S, governance arrangements)

### b) Asset Management Plan

#### Operation and Maintenance Plans

These plans should provide details of how the LWU plans to operate and maintain the assets of the business so as to meet the current and expected services that its community demands. The plans should also indicate how the LWU will comply with current and anticipated regulatory requirements.

#### Capital Works Plan

This plan should provide details of proposed works to renew, replace and augment current systems so as to maintain current services and meet the community's future service levels in terms of growth and anticipated standards and levels of service. The Asset Management Plan is to include expenditure required to mitigate the impact of known externalities, eg. the impact of new water sharing plans on the utility's water supply.

### c) Key performance indicators

The strategic business plan should provide details of the key performance indicators that the business will assess its performance against. Primarily this should clearly identify the service standards (eg. water quality and availability, water losses, sewage treatment and discharge and service coverage) which the community can expect from the business.

### d) Customer Service Plan

### e) Levels of Service

### f) Human Resources Plan

An LWU that has completed a sound strategic business plan and long-term financial plan for its water supply and sewerage businesses has demonstrated the long-term financial sustainability of the businesses. **The LWU thus has control of the future development of these businesses, and providing it continues to levy Typical Residential Bills (TRBs) in accordance with its financial plan, the LWU will be able to fund all its future commitments for capital and recurrent expenditure and dividend and tax-equivalent payments.**

## Financial Plan

A robust financial plan is a key element of an LWU's water supply or sewerage strategic business plan. The financial plan should clearly indicate how the business will finance the provision of services that meet levels of service negotiated with the community and the long-term commercial viability of the business. The plan should aim to achieve the lowest stable Typical Residential Bills<sup>2</sup> (TRBs).

<sup>2</sup> The Typical Residential Bill (TRB) is the annual bill paid by a residential customer using the LWU's average annual residential water consumption and is the **principal indicator of the overall cost** of a water supply or sewerage system. Pensioners pay a lower amount due to the \$87.50 pensioner rebate as do the owners of vacant lots, which pay no water usage charges.

## Best-Practice Management of Water Supply and Sewerage Guidelines



The financial plan should identify how the following costs and payments will be financed:

- Operation, maintenance and administration costs
- Capital renewals and replacement costs (including an acceptable rate of return)
- Capital augmentation costs (including an acceptable rate of return)
- Dividends and tax-equivalents

The strategic business plan and financial plan should also address the issues in the Check List in **Appendix A**.

### 2.2.2 Pricing (including Developer Charges, Liquid Trade Waste Policy and Approvals)<sup>3</sup>

Best-practice water supply, sewerage and liquid trade waste pricing requires transparent tariff structures and price levels that:

- Recover efficient costs of service provision, including an appropriate return on infrastructure capital
- Provide appropriate signals to customers about the cost consequences of their service demands, in order to encourage efficient use of resources (both environmental and financial) associated with service provision
- Are consistent with the principles of the Australian Government's *Strategic Framework for Water Reform, National Competition Policy and National Water Initiative*
- Are simple for customers to understand and easy for the service provider to implement and administer
- Have due regard for the social implications of price/tariff movements in terms of impacts on "vulnerable" customers
- Support, where practical, government policy objectives in relation to regional development, employment, public health and welfare

#### a) Water Supply Pricing<sup>4</sup>

With water becoming an increasingly scarce resource both locally and globally, it is appropriate that LWUs focus on influencing water demand through increasing emphasis on usage based pricing.

Best-practice **water supply** pricing requires that the usage charge recover those costs that vary with demand in the long-term (ie. long-run marginal cost), through a usage charge. These costs should include licence and extraction fees from

<sup>3</sup> As Gosford and Wyong Councils' pricing and developer charges are regulated by IPART, these councils need only demonstrate compliance with the liquid trade waste policy and approvals component of this criterion.

<sup>4</sup> It is anticipated that in the future the *Local Government Act 1993* will be amended to allow integrated water pricing for water supply and sewerage services to non-metropolitan NSW. In such a case, integrated water pricing in accordance with Attachment 2 will comply with elements 2 (a), 2 (b) and 2 (c) of Criterion 2 in Table 1 on page 22.

*Best-practice pricing includes removal of land value from access charges and removal of significant cross-subsidies.*

## Best-Practice Management of Water Supply and Sewerage Guidelines



external regulatory agencies and should reflect the indirect costs (ie. externalities) associated with these demands.

For some LWUs this cost may be such that all costs be recovered through a usage charge. Where an access charge is required, the access charge for larger non-residential customers should reflect their capacity requirements.

Where LWUs are responsible for both supply of potable water and management of the wastewater (sewerage), integrated water cycle management (IWCM) strategies, including recycling, are becoming increasingly important. In this context, integrated water pricing strategies could be considered. Whilst it is recognised that under the *Local Government Act, 1993* this is not possible at present, it is likely that in the near future the Act<sup>4</sup> will be amended to allow use of integrated water pricing for water supply and sewerage services.

LWUs should adopt the following pricing principles when setting water supply tariffs:

1. Appropriate water usage charge/kL based on the long-run marginal cost of water supply.
2. Residential water usage charges must be set to recover at least 75% of residential revenue<sup>5,6</sup>.
3. To encourage water conservation, high water consuming residential customers should be subjected to a step price increase of at least 50% for incremental usage above a specified threshold. This threshold should not exceed 450<sup>7</sup> kL/a per household or 600<sup>8</sup> kL/a for LWUs outside the DWE Coastal and Tablelands Zone.
4. LWUs must bill at least three times each year (and preferably every quarter) to improve the effectiveness of pricing signals.
5. LWUs should include both water access charges and water usage charges in each bill to customers. In addition, any LWU planning to update its water billing system should move to comply with the National Guidelines on the layout and content of customer bills. The Guidelines have been prepared pursuant to Item 66(iv) of the National Water Initiative<sup>9</sup>.
6. In situations where large cross-subsidies for non-residential customers currently exist, LWUs should develop pricing strategies that target the removal of these cross-subsidies over a 5 year period.

With a higher proportion of water supply revenue obtained from usage charges, LWUs' revenue will be more greatly affected by annual weather variations.

<sup>5</sup> Except LWUs with under 4,000 connected properties which will need to recover at least 50% of residential revenue from water usage charges.

<sup>6</sup> It is noted that the limit of 4,000 properties has been determined conservatively and many LWUs with 3,000 to 4,000 connected properties will be able to achieve 75% of residential revenue from usage charges.

<sup>7</sup> LWUs with quarterly billing may use relevant volumes for the step price increase in each quarter, eg. 150kL in the summer quarter and 100kL in the others 3 quarters. Similarly, LWUs billing 3 times/a may allocate a relevant component of the threshold for each billing period.

<sup>8</sup> For LWUs outside the DWE Coastal and Tablelands Zone with a high incidence of evaporative air coolers, providing the first step of the water usage charge is set at the long-run marginal cost, the threshold for the step price increase may be up to 600 kL/a. LWUs outside the DWE Coastal and Tablelands Zone include Inverell, Gwydir, Tamworth, Dubbo, Parkes, Forbes, Young, Cootamundra, Gundagai, Tumut and Tumbarumba, and any LWUs further west.

<sup>9</sup> National Guidelines for Residential Customers' Water Accounts 2006, Natural Resource Management Ministerial Council.

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LWUs may therefore establish a revenue fluctuation reserve of up to 10% of turnover. LWUs can draw on this reserve to assist them to cope with wet years or drought water restrictions where water sales are lower than predicted. Dry years will result in a corresponding increase in demand and revenue.

For guidance in developing and implementing best-practice pricing tariffs refer to Appendix B.

### b) Sewerage Pricing

Best-practice **sewerage** pricing involves a uniform annual sewerage bill for residential customers. For non-residential customers an appropriate sewer usage charge is required for the estimated volume discharged to the sewerage system, together with an access charge based on the capacity requirements that their loads place on the system relative to residential customers.

For guidance in developing and implementing best-practice pricing tariffs refer to Appendix B.

### c) Liquid Trade Waste Pricing, Policy & Approvals

Best-practice **liquid trade waste** pricing requires appropriate annual trade waste fees and re-inspection fees for all liquid trade waste dischargers. These fees are in addition to the non-residential sewerage bill.

The LWU must also levy an appropriate trade waste usage charge for trade waste dischargers with prescribed pre-treatment<sup>10</sup>, and appropriate excess mass charges for large trade waste dischargers (> about 20 kL/d) and for dischargers of industrial waste.

As noted in Appendix B on page 53, any large increases in liquid trade waste fees and charges may be phased-in over a period of up to 3 years.

The *Liquid Trade Waste Management Guidelines*, March 2005 provide guidance for LWUs on developing an appropriate trade waste policy and assessing, approving, monitoring, pricing and enforcing compliance for liquid trade waste dischargers to the sewerage system.

In order to properly manage dischargers of liquid trade waste to the sewerage system and to protect sewerage system assets and the environment, LWUs must adopt a Liquid Trade Waste Policy in accordance with the *Liquid Trade Waste Management Guidelines*. As noted on page 42 of the Guidelines, DWE consent is required for an LWU's trade waste policy. In addition, LWUs must issue a trade waste approval to each trade waste discharger connected to the sewerage system, and must annually inspect the premises of each discharger.

### d) Developer Charges

Developer charges are up-front charges levied to recover part of the infrastructure costs incurred in servicing new development or changes to existing development. Developer charges provide a source of funding for infrastructure and provide signals to the community regarding the cost of urban development.

In essence, where the costs of serving new urban development are in excess of the current and expected costs of servicing existing customers, then the additional

<sup>10</sup> Prescribed pre-treatment comprises the equipment shown in Table 7 of '*Liquid Trade Waste Management Guidelines*, March 2005, or any pre-treatment facilities deemed appropriate by the LWU.

## Best-Practice Management of Water Supply and Sewerage Guidelines



costs should be recovered from new entrants in the form of an up-front contribution.

LWUs need to prepare a Development Servicing Plan (DSP)<sup>11</sup> with commercial water supply or sewerage developer charges in accordance with Developer Charges Guidelines for Water Supply, Sewerage and Stormwater, December, 2002. The DSP must disclose any cross-subsidies.

Guidance on water supply and sewerage developer charges is provided in the Check List in Appendix B.

### e) Exceptions

Some exceptions to the achievement of the required outcomes by an LWU are acceptable if these are outside the LWU's control, for example, where an LWU has in place a binding pre-existing agreement for tariffs with certain customers. These exceptional contracts must be replaced as soon as is legally practicable with best-practice tariffs. In such circumstances the LWU is deemed to have achieved substantial compliance provided it (1) discloses the number of such pre-existing binding agreements in a council meeting open to the public and (2) appends a note to this effect to its Statement of Compliance (page 34).

### 2.2.3 Water Conservation

Appropriate water conservation and demand management are essential for ensuring efficient use of our valuable water resources and to improve environmental outcomes as required by the *Water Management Act 2000* and the National Water Initiative. Cost-effective demand management delivers significant environmental and social benefits and reduces capital and operating costs. Demand management is a key component of the strategic planning process. LWUs should identify and implement appropriate demand management measures to achieve cost and energy savings, protect the environment and reduce wastewater flows.

A key part of managing demand is understanding how and when water is used. A demand management program therefore requires metering of all customers supplied, together with demand analysis.

Demand management measures that should be examined as part of a demand management program include:

- The implementation of permanent water saving measures to minimise wastage, in accordance with Item 91 (iii) of the National Water Initiative<sup>12</sup>.
- Active intervention – appropriate retrofit programs, rebates for water efficient appliances, rebates for rainwater tanks, effluent and stormwater re-use programs, building code programs (including the

<sup>11</sup> LWUs with growth of under 5 lots/a are exempted from preparing DSPs and need only prepare a brief Exemption Document in accordance with the Developer Charges Guidelines.

An LWU with growth of 5 or more lots/a that resolves not to levy developer charges needs to prepare a Policy Document in accordance with the Developer Charges Guidelines. However, such an LWU would fail to comply with these best-practice guidelines and is therefore ineligible for dividend payment from the surplus of its water supply or sewerage businesses. The LWU needs to tick the relevant "NO" box in Attachment 1 (pages 32 and 33).

<sup>12</sup> Review the effectiveness of temporary water restrictions and associated public education strategies, and assess the scope for extending low level restrictions as standard practice.

*Cost-effective water conservation and demand management deliver significant environmental and social benefits and reduces capital and operating costs.*



## Best-Practice Management of Water Supply and Sewerage Guidelines

impact of the BASIX planning tool) and the requirement that large non-residential water users prepare and implement water savings action plans

- Water pricing reform
- Community education
- Water loss and leakage reduction programs.

Each LWU should review its demand management measures every 2 years to ensure that it has an appropriate balance between demand and supply-side investment.

Guidance on water conservation and demand management issues is provided in the Check List in Appendix C.

### 2.2.4 Drought Management

A fundamental responsibility of the manager of a water supply system is to soundly manage water use during droughts. Guidance on drought management issues is provided in the Check List in Appendix D.

As noted in Appendix D, adoption of a schedule of trigger points for the timely implementation of appropriate water restrictions is a key element of a drought management plan. The LWU's general manager is responsible for ensuring that such timely water restrictions are implemented in accordance with the utility's adopted schedule.

### 2.2.5 Performance Reporting

Annual performance reporting and monitoring are required under the Australian Government's *National Competition Policy* and *National Water Initiative*, are important for public accountability and have been strongly endorsed by the NSW Government, the Independent Pricing and Regulatory Tribunal, the Local Government Association and the Shires Association.

The NSW Government promotes continuous performance improvement to improve the quality and efficiency of services to the community. Performance monitoring provides valuable data for enabling an LWU to review and improve its performance by examining trends in its performance indicators and to benchmark its performance against that of similar utilities.

Guidance on performance reporting issues is provided in the Check List in Appendix E.

### 2.2.6 Integrated Water Cycle Management

Integrated water cycle management (IWCM) is the integrated management of the water supply, sewerage and stormwater services within a whole of catchment strategic framework having regard to catchment blueprints and other water management plans. IWCM is a framework to help identify water management problems, to address these problems, to determine the appropriate management responses and to manage the impacts of the problems so that social, environmental and economic objectives are met.

An IWCM Strategy has a long-term planning horizon. The first phase of the strategy (the IWCM Evaluation) defines the catchment, water resource and urban water issues faced by the LWU. Catchment issues such as floodplain management and acid sulphate soils may impact on the location of sewage



*Performance monitoring provides valuable data for enabling an LWU to review and improve its performance.*

*IWCM is a framework to help identify water management problems and to determine appropriate management responses so that social, environmental and economic objectives are met.*



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treatment works (STWs), whilst water resource issues would include the changes to water access faced by LWUs under the *Water Management Act 2000* and urban water issues might include existing system deficiencies.

Once the issues are broadly defined, studies are undertaken for the second phase (the IWCM strategy) to better define issues and look at ways of managing them. Studies involve population and water demand projections, bulk supply and distribution analysis and management option development. This process results in the LWU adopting a long-term strategy for the integrated delivery of its water supply, sewerage and stormwater services to customers.

Such a strategy involves integrating planning and management of all components of the LWU's uses of the water cycle so that water is used optimally.

LWUs need to prepare an IWCM Evaluation by June 2007 in accordance with Appendix F and the *Integrated Water Cycle Management Guidelines*, October 2004. Unless the IWCM Evaluation demonstrates that preparation of an IWCM Strategy is not warranted, an IWCM Strategy is to be completed and implemented by June 2008. Guidance on IWCM issues is provided in the Check List in Appendix F.

### 2.3 Other Considerations

#### 2.3.1 Sewer Backlog Areas

LWUs are reminded that they may spread part of the capital cost for serving sewer backlog areas across their full customer base. Such spreading of a part of the capital cost helps to make water supply and sewerage charges affordable for small towns.

#### 2.3.2 Vulnerable Customers

Whilst best-practice water supply pricing will allow many customers to reduce their water supply bills, a small number of vulnerable customers may face financial hardship due to increased water bills. Such customers are large families on low incomes, who have a high level of non-discretionary water use and home dialysis patients.

It is recommended that LWUs define vulnerable customers as families holding a Health Care Card and who have three or more children and households with a patient on home dialysis.

To mitigate the impact of best-practice pricing on vulnerable customers, LWUs may implement programs for reducing the bills of such customers. Options available for LWUs in this regard include:

- Targeted retrofit programs for the installation of low-flow shower roses, tap aerators, tap timers and dual flush toilets;
- Rebates for the purchase of water-efficient front-loading washing machines; and
- Cash rebates for part or all of the access charge component of the water bill.

Prior to the adoption of such programs, it is recommended the LWU undertake an incidence analysis to identify the likely number of vulnerable customers adversely affected and the likely impacts of each option on the customers and the LWU's revenue.

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It is important for LWUs to develop appropriate measures along the above lines for vulnerable customers to maintain social equity, while providing appropriate pricing signals to encourage all customers to avoid waste and to use water efficiently.

### 2.3.3 Further Initiatives

The NSW Government encourages LWUs to continue to improve their performance and to efficiently and effectively manage their water supply and sewerage businesses.

In this regard LWUs are strongly encouraged to prepare and implement a Drinking Water Quality Framework, Quality management Plan and an Environmental Management Plan for their water supply and sewerage businesses. LWUs should also have regard to forthcoming national principles and guidelines when setting future fees and charges for recycled water and stormwater reuse. The above initiatives are not at present a requirement for compliance with these guidelines.

- **Framework for Management of Drinking Water Quality**

A risk based drinking water quality management plan is required to be developed by each LWU under the *Australian Drinking Water Guidelines 2004* (refer to page 2-1, Ref 18 and NWI Indicator H6, Ref 16). It is recommended that all LWUs with over 10,000 connected properties obtain an external third party accredited assessment of their drinking water quality management plan (refer to NWI Indicator H5, Ref 16).

- **Quality Management Plan**

The Quality Management Plan (QMP) is aimed at improving the performance of the organisation in terms of customer and stakeholder satisfaction.

Many LWUs have insufficient documentation of their procedures and processes. Consequently, extensive corporate knowledge is lost when experienced staff leave or retire from the organisation. Not only does this create inefficiencies when the knowledge has to be re-learnt, it can lead to reduction in stakeholder satisfaction due to system failure and inadequate responses.

Key principles for improving organisational performance are:

- (1) Customer focus
- (2) Leadership
- (3) Involvement of people
- (4) Process approach
- (5) System approach to management
- (6) Continuous improvement
- (7) Factual approach to decision making
- (8) Mutually beneficial supplier relationships.

LWUs should commence with the preparation of a QMP for their water supply and sewerage operations. A staged implementation is recommended, whereby the first stage would be to document corporate

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knowledge to enable continuing delivery of services and ensure that stakeholder satisfaction is maintained.

This would be followed by management systems aimed at communicating, monitoring and improving the performance of the LWU.

- **Environmental Management Plan**

An Environmental Management Plan (EMP) aims to address and manage environmental issues related to operation of the business. The main benefits of implementing an EMP by an LWU are:

- Contribute in the achievement of managing natural resources and the environment on a sustainable and socially responsible manner.
- Contribute to improve LWU's environmental performance.
- Reduce operation, maintenance and administration (OMA) costs by identifying opportunities to reduce waste and improve the LWU's business processes.
- Assist with compliance with environmental legislation and reduce the risk of fines and penalties.
- Protect LWU against legal prosecution and reduce legal risk.

The following 29 LWUs had an EMP in place in June 2006:

Albury, Bombala, Byron, Cabonne, Carrathool, Clarence Valley, Corowa, Dubbo, Eurobodalla, Fish River, Glen Innes Severn, Gosford, Goulburn Mulwaree, Greater Hume, Griffith, Port Macquarie-Hastings, Kempsey, Lismore, Lockhart, MidCoast, Nambucca, Orange, Riverina, Shoalhaven, Tenterfield, Wagga Wagga, Wakool, Wingecarribee and Wyong.

- **Pricing of Recycled Water and Stormwater Reuse**

National principles and guidelines are being developed under the *National Water Initiative* in regard to the setting of fees and charges for recycled water and stormwater reuse. LWUs should have regard to these principles and guidelines when setting future fees and charges for recycled water or stormwater reuse.

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### 3 Dividends

#### 3.1 Introduction

A local government LWU is now permitted to pay an annual dividend from its water supply or sewerage businesses. Such a dividend may be paid for each business after the end of each financial year commencing in 2003/04.

However, as a pre-requisite to the payment of a dividend from the surplus in accordance with section 409 (5) of the *Local Government Act 1993*, an LWU must demonstrate achievement of the required outcome for each criterion in column (3) of Table 1 (page 22) on the basis of "substantial compliance".

An LWU must report its achievement of these outcomes in a note to its annual Special Purpose Financial Reports in accordance with Attachment 1 (page 34).

#### 3.2 Criteria for Payment of Dividend

Achievement of the outcomes required by these guidelines will enable an LWU to demonstrate that its water supply and sewerage businesses are healthy and sustainable. This is essential to assure the local community that the LWU is managing the water supply and sewerage businesses responsibly and that the charges for these services will not increase unexpectedly.

It is recommended that each LWU verify that the overhead reallocation charge from its constituent council is calculated accurately and fairly before recommending that a dividend from its surplus be paid. An effective costing methodology, such as activity based costing, should be utilised when calculating the overhead reallocation charge, so as to allow recovery of only the LWU's share of the overhead costs.

Prior to paying a dividend from the surplus of a water supply or sewerage business, the LWU must:

- (1) obtain an independent compliance audit report verifying that the LWU has demonstrated achievement of all the required outcomes set out in column (3) of Table 1 (page 22); and
- (2) obtain an independent financial audit report (conducted in accordance with Australian Accounting Standards and the requirements of the Ministers for Water Utilities and Local Government) that verifies the water supply and/or sewerage Special Purpose Financial Reports are a true and accurate reflection of the business and that the overhead reallocation charge to these businesses is a fair and reasonable cost.

The LWU must also resolve in a council meeting open to the public that it has achieved the required outcome for each of the 6 criteria in Table 1 of these guidelines.

LWUs must complete and forward the following documents to the Department of Water and Energy **prior to** payment of a dividend from the surplus:

- The Statement of Compliance and the Dividend Payment Form (page 34);
- The Statement of Financial Performance of Business Activities (page 18);
- The independent compliance audit report (page 34); and

## Best-Practice Management of Water Supply and Sewerage Guidelines



- The unqualified independent financial audit report (page 34).

The Department will advise the LWU whether it may pay the proposed dividend from the surplus within 5 working days.

A county council which achieves the required outcomes may pay a dividend to its constituent councils on a pro-rata basis based on the number of assessments in each constituent council area.

LWUs facing major capital expenditure for new or replacement infrastructure should defer paying a significant dividend from their surplus as such a payment would directly increase the required Typical Residential Bill (TRB). Such capital expenditure in any financial year is defined as that which exceeds 3% of the current replacement cost (CRC) of the LWU's water supply or sewerage assets.

### 3.3 Amount of Dividend

A dividend is in the nature of a 'return on investment' paid to the 'shareholder' which in this case is the local government council responsible for managing and investing in the LWU's water supply and sewerage functions. The council may apply the dividend for any purpose under the *Local Government Act* or any other Act.

The dividend is in two parts: a dividend calculated for tax-equivalents and a dividend calculated from the surplus.

- All LWUs must pay the dividend for tax-equivalents.
- The dividend from the surplus may only be paid by LWUs which achieve the required outcome for each of the 6 criteria, as set out in Table 1 on page 18. The surplus excludes any government capital grants<sup>13</sup> for infrastructure (eg. towards the capital cost of backlog sewerage projects).

#### 3.3.1 Dividend for Tax-equivalents

To ensure ongoing commercial viability<sup>14</sup>, prices should be set so annual cost recovery by a water supply or sewerage business includes taxes or tax-equivalents (excluding income tax). Accordingly, all NSW LWUs must make a dividend payment for the amount calculated as the annual tax-equivalent payment (excluding income tax) commencing in 2003/04.

The reported tax-equivalent expenses<sup>15</sup> (excluding income tax) for most NSW LWUs are under \$1/assessment. Accordingly, the upper limit for such dividend payments from each of an LWU's water supply or sewerage businesses is set at \$3/assessment. The council may apply the dividend for tax-equivalents for any purpose under the *Local Government Act* or any other act, including local community and charitable purposes.

<sup>13</sup> Government capital grants include grants under the Country Towns Water Supply and Sewerage Program as well as any National Heritage Trust (NHT) funding. Such grants are "tax-free income" provided for investment in essential backlog infrastructure. Dividends will thus not be subsidised by government capital grants. Capital payments from other LWUs are also to be excluded.

<sup>14</sup> The 2003 National Competition Policy Assessment Framework for Water Reform, National Competition Council, February 2003 (Ref 14 on page 27).

<sup>15</sup> As reported in LWUs' Special Purpose Financial Reports which are provided with the LWUs' Annual Financial Statements.

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Achievement of substantial compliance against the Best-Practice Guidelines is NOT a prerequisite for the payment of a dividend for tax-equivalents.

### 3.3.2 Dividend from Surplus

Provided that an LWU has demonstrated achievement of the required outcome for each criterion in column (3) of Table 1 (page 22) for its water supply or sewerage businesses, the LWU may pay an annual dividend from the surplus of that business.

The dividend payment is subject to the following preconditions:

- (1) The "Surplus Before Dividends" must be calculated on the basis shown in the Statement of Financial Performance of Business Activities on page 18; and
- (2) The dividend from surplus must not exceed 50% of this surplus in any one year; and
- (3) The dividend from surplus must not exceed the number of water supply or sewerage assessments<sup>16</sup> at 30 June of the relevant year multiplied by \$30<sup>17</sup>, less the dividend for tax-equivalents; and
- (4) The dividend from surplus may only be paid so that the total dividend from surplus paid in each rolling three year period does not exceed the total relevant surplus in the same period.

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<sup>16</sup> Refers to the total of occupied assessments and unoccupied assessments.

<sup>17</sup> The amount of \$30 is to be replaced by \$15 for a council which does not provide the full water supply service to its customers. Councils carrying out either a "bulk water supply" function or a "reticulation" function may therefore pay a maximum total dividend of \$15/assessment.

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Example Statement - Special Purpose Financial Reports

**STATEMENT OF FINANCIAL PERFORMANCE OF BUSINESS ACTIVITIES – WATER SUPPLY (4)**  
 for the year ending 30 June 2007

	Year Ended 30 June 05 (Cat. ) \$'000	Year Ended 30 June 06 (Cat. ) \$'000	Year Ended 30 June 07 (Cat. ) \$'000
<b><u>INCOME FROM CONTINUING OPERATIONS</u></b>			
Access Charges			
User charges			
Fees			
Grants for non capital purposes			
Profit on sale of assets			
Other ordinary income			
<b>Total</b>	_____	_____	_____
<b>Less</b> <b><u>EXPENSES FROM CONTINUING OPERATIONS</u></b>			
Employee related costs			
Overheads (direct and allocated)			
Water Purchase charges			
Materials & contracts			
Loss on sale of assets			
Other operating expenses			
<b>Total</b>	_____	_____	_____
<b><u>NET OPERATING SURPLUS</u></b>	_____	_____	_____
<b>Less</b> Depreciation			
Interest			
Dividend for Tax-Equivalents (not exceeding \$3/assessment)			
<b><u>NET OPERATING SURPLUS BEFORE CAPITAL MOVEMENTS</u></b>	_____	_____	_____
<b>Add</b> Developer Charges and Contributions (1)			
<b><u>SURPLUS BEFORE DIVIDENDS (2)</u></b>	_____	_____	_____
<b>Less</b> Dividends (3)			
<b>Add</b> Governments capital grants and capital payments			
<b><u>SURPLUS (NET INCREASE IN ASSETS)</u></b>	_____	_____	_____
<b>Add</b> Opening Retained Profits			
<b><u>CLOSING RETAINED PROFITS</u></b>	_____	_____	_____
<b><u>NOTATION OF AMOUNTS UNPAID</u></b>			
❖ Tax Equivalent Payments (amount in excess of \$3/assessment)			
❖ Debt Guarantee Fees			
❖ Corporate Taxation Equivalent (30%) based on the Net Operating Surplus			

- Notes:**
- (1) Exclude Government capital grants and capital payments from other LWUs.
  - (2) Relevant Surplus for purpose of determining dividend eligibility.
  - (3) The dividend payment in (3) above is subject to the following preconditions:
    - (a) The dividend from surplus must not exceed 50% of the surplus in (2) above in any one year; and
    - (b) The dividend from surplus must not exceed the number of water supply or sewerage assessments at 30 June of the relevant year multiplied by \$30, less the dividend for tax-equivalents; the dividend for tax-equivalents must not exceed \$30/assessment; and
    - (c) The dividend from surplus may only be paid so that the total dividend from surplus paid in each rolling three year period does not exceed the total relevant surplus in the same period.
  - (4) A similar Statement of Financial Performance is required for sewerage services.

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### 4 Abbreviations and Glossary

a	Annum.
ADWG 2004	<i>Australian Drinking Water Guidelines</i> (National Health and Medical Research Council/Natural Resources Management Ministerial Council), 2004.
ADWF	Average dry weather flow. One of the design parameters for flow in sewers.
Annual Demand	The total water demand over a year. Used to size headworks components.
BOD	Biochemical oxygen demand. Used as a measure of the 'strength' of sewage.
Capital Cost	The present value (MEERA basis) of assets used to service development.
Capital Charge	Capital cost of assets per ET x Return on Investment (ROI) Factor.
COAG	Council of Australian Governments.
CPI	Consumer price index.
CRC	Current replacement cost.
CTWS&S	Country Towns Water Supply and Sewerage.
DEC	Department of Environment and Conservation.
Developer Charge (DC)	A charge levied on developers to recover part of the capital cost incurred in providing infrastructure for new development.
DM	Demand Management.
DEUS	Department of Energy, Utilities and sustainability.
Discount Rate	The rate used to calculate the present value of money arising in the future.
DLWC	Department of Land and Water Conservation.
DIPNR	Department of Infrastructure, Planning and Natural Resources.
DSP	Development Servicing Plan.
DWE	Department of Water and Energy.
EM	Environmental Management.
EP	Equivalent Persons (or equivalent population). Used as a design parameter for loadings of sewage treatment works.
EPA	Environment Protection Authority.
EPA 1979	<i>Environmental Planning and Assessment Act 1979</i> .
ET	Equivalent tenement. A measure of the demand a development will place on the infrastructure in terms of the water consumption or sewage discharge for an average residential dwelling.
FINMOD	The NSW Financial Planning Model.
FP	Financial plan.
GST	Goods and services tax.
IWCM	Integrated Water Cycle Management.



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IPART	Independent Pricing and Regulatory Tribunal, NSW.
kL	Kilolitre (1000 litres).
LGA 1993	<i>Local Government Act 1993.</i>
LGA and SA	Local Government Association and Shires Association, NSW.
LWU	Local Water Utility.
MEERA	Modern Engineering Equivalent Replacement Asset. An asset value calculated on the basis that the asset is constructed at the time of valuation in accordance with modern engineering practice and the most economically viable technologies, which provides similar utility functions to the existing asset in service.
MEU	Ministry of Energy and Utilities.
ML	Megalitre (1,000,000 litres, or 1000 kilolitres).
NCP	National Competition Policy.
NPV	Net present value. The difference between the Present Value of a revenue stream and the Present Value of a cost stream.
NWI	National Water Initiative
OH&S	Occupational Health and Safety.
OH&S 2000	<i>Occupational Health and Safety Act 2000.</i>
OMA	Operation, maintenance and administration (cost).
Peak Day Demand	The maximum demand in any one day of the year. Used to size water treatment works, service reservoirs trunk mains and pumping stations in the distribution system.
POEO Act	<i>Protection of the Environment Operations Act 1997.</i>
PV	Present value. The value now of money, or ETs, in the future.
PWD	Public Works Department.
PWWF	Peak wet weather flow. One of the design parameters of flow in sewers.
Reduction Amount	The amount by which the capital charge is reduced to arrive at the developer charge. This amount reflects the capital contribution that will be paid by the occupier of a development as part of future annual charges.
ROI	Return on investment. Represents the income that is, or could be, generated by investing money.
SBP	Strategic Business Plan.
SS	Suspended solids, or the concentration of particles in sewage. Used as a measure of the 'strength' of sewage.
STW	Sewage treatment works.
TBL	Triple Bottom Line.
TRB	Typical residential bill.
UFW	Unaccounted-for-water.
WMA 2000	<i>Water Management Act 2000.</i>
WTW	Water treatment works.

## Best-Practice Management of Water Supply and Sewerage Guidelines



# PART B BEST-PRACTICE - PROCESS

## 5 Eligibility Criteria

In order to be eligible to pay a dividend from its water supply or sewerage business, an LWU will need to demonstrate achievement of the required outcomes for each of the 6 criteria shown in Figure 1 below and in Table 1 overleaf.

For each business, LWUs will need to demonstrate achievement of each outcome listed in column (3) of Table 1 in order to be eligible to pay a dividend. In addition, the LWU will need to obtain a compliance audit report and an unqualified financial audit report in accordance with section 3.2 (page 15).

Where an LWU has not achieved substantial compliance with best practice pricing principles (criterion 2(b) in column (3) of Table 1), the Minister for Water Utilities may agree to waive the requirement to achieve these outcomes in a particular financial year where:

- (1) there are exceptional circumstances that justify such a waiver; and
- (2) the LWU has made substantial progress in achieving substantial compliance; and
- (3) the LWU has made a demonstrated commitment to achieve substantial compliance within a period not exceeding 12 months.

<b>Best-Practice Management Criteria</b>	
1.	<b>Strategic Business Planning</b>
2.	<b>Pricing (including Developer Charges, Liquid Trade Waste Policy and Approvals)</b>
3.	<b>Water Conservation</b>
4.	<b>Drought Management</b>
5.	<b>Performance Reporting</b>
6.	<b>Integrated Water Cycle Management</b>

**Figure 1 Eligibility Criteria**

An LWU must report its achievement of these outcomes in a note to its annual Special Purpose Financial Report in accordance with Attachment 1 (page 34).



Best-Practice Management of Water Supply and Sewerage Guidelines

Table 1 – Required Outcomes for Best-Practice Criteria			
Criterion (1)	Required Outcome (2)	Indicators to Demonstrate Achievement of Outcome (3)	Tools & Resources (4)
1 Strategic Business Planning	A current, sound Strategic Business Plan (SBP) and financial plan.	<ul style="list-style-type: none"> <li>• Current SBP that includes:                             <ul style="list-style-type: none"> <li>▪ Operating environment review</li> <li>▪ Asset management plan (operation, maintenance, capital works)</li> <li>▪ Key performance indicators</li> <li>▪ Customer service plan</li> <li>▪ Levels of service</li> <li>▪ Human resources plan</li> </ul> </li> <li>• Address issues in Ref 1 and the Check List* in Appendix A. A current SBP and financial plan is one which has been prepared or updated within the last 3 years.</li> </ul>	Appendix A  Demonstrate long term financial sustainability of the business to comply with NCP and NWI. Page 12 of Ref 14.
Financial Planning	A robust financial plan which includes a capital works plan.	<ul style="list-style-type: none"> <li>• A robust minimum 20 year financial plan which identifies the lowest required stable typical residential bill (TRB).</li> <li>• Address the issues in Ref 2 and the Check List* in Appendix A.                             <ul style="list-style-type: none"> <li>* Each check list is essentially a road map to assist LWUs to quickly address the issues covered by the relevant guidelines as well as any developments since publication of the guidelines.</li> </ul> </li> </ul>	Appendix A  See above.
2 Pricing <sup>18</sup> and Developer Charges	Full cost-recovery for each of water supply and sewerage businesses.	<ul style="list-style-type: none"> <li>• Appropriate tariffs without significant cross-subsidies.</li> <li>• Total annual income and projected TRB should be consistent with above financial plan. This generally results in a positive economic real rate of return (ERRR).</li> </ul>	Ref 4 Appendix B  Full cost-recovery with consumption based water supply pricing, trade waste charging and removal of cross-subsidies to comply with COAG Strategic Framework for Water Reform, NCP and NWI. Pages 12, 17, 18, 22 of Ref 14.

<sup>18</sup> Agreement has been reached with the Local Government Association and the Shires Association of NSW to amendment of the Local Government Act 1993 in order to provide NSW LWUs with the option of using integrated water pricing for their water supply and sewerage services. An LWU implementing integrated water pricing in accordance with Attachment 2 on Page 35 will comply with elements 2 (a), 2 (b) and 2 (c) of Criterion 2 above.

## Best-Practice Management of Water Supply and Sewerage Guidelines



Table 1 – Required Outcomes for Best-Practice Criteria			
Criterion	Required Outcome	Indicators to Demonstrate Achievement of Outcome	Tools & Resources
(1)	(2)	(3)	(4)
(b)	Complying water supply tariff.	<ul style="list-style-type: none"> <li>Appropriate water usage charge/kL based on long-run marginal cost.</li> <li>Access charge relative to a customer's capacity requirements.</li> <li>No land value based charges (ie. rates) and no "free" or "pre-paid" water allowance.</li> <li>Any large increases in non-residential customer bills phased in over 5 years.</li> <li>To encourage water conservation, high water consuming residential customers should be subjected to a step price increase of at least 50% for incremental usage above a specified threshold. This threshold should not exceed 450 kL/a per household, except for LWUs outside the DWE Coastal and Tablelands Zone with a high incidence of evaporative air coolers, where a threshold of up to 600kL/a per household may be used.</li> <li>LWUs with 4,000 or more connected properties to have at least 75% of residential revenue* generated through usage charges by June 2008 (at least 50% required by June 2006 and at least 60% required by June 2007).</li> <li>LWUs with under 4,000 connected properties to have at least 50% of residential water revenue* generated through usage charges.</li> </ul> <p>* LWUs may demonstrate compliance with this requirement on the basis of either ( i ) or ( ii ) below:</p> <ul style="list-style-type: none"> <li>( i ) their projected total residential revenue for the next financial year, or</li> <li>( ii ) their projected typical residential bill (on the basis of their average annual residential consumption per connected property) for the next financial year.</li> </ul>	Page 9 Ref 4 Page 10 Ref 4 Appendix B
(c)	Complying sewerage tariff.	<ul style="list-style-type: none"> <li>Appropriate residential tariff.</li> <li>No land value based charges (ie. rates).</li> <li>Non-residential <ul style="list-style-type: none"> <li>Two-part tariff.</li> </ul> </li> </ul>	Page 28 Ref 4 Page 29 Ref 4 Page 29 Ref 4



**Best-Practice Management of Water Supply and Sewerage Guidelines**

<b>Table 1 – Required Outcomes for Best-Practice Criteria</b>			
<b>Criterion</b>	<b>Required Outcome</b> <b>(2)</b>	<b>Indicators to Demonstrate Achievement of Outcome</b> <b>(3)</b>	<b>Tools &amp; Resources</b>
<b>(1)</b>			<b>COAG/NCP/NWI/Statutory Requirements</b> <b>(4)</b>
		<ul style="list-style-type: none"> <li>▪ Appropriate sewer usage charge/kL.</li> <li>▪ Access charge that is reflective of the cost of providing these sewerage services.</li> <li>▪ Any large increases in non-residential customer bills phased in over 5 years.</li> </ul>	Page 31 Ref 4
(d)	<b>Complying liquid trade waste fees and charges for all liquid trade waste dischargers.</b>	<ul style="list-style-type: none"> <li>• Annual trade waste fee for all liquid trade waste dischargers.</li> <li>• Trade waste usage charge for dischargers with prescribed pre-treatment.</li> <li>• Excess mass charges for large dischargers and industrial waste.</li> </ul>	Page 208 Ref 5 Page 209 Ref 5 Pages 209 to 212 Ref 5
Developer Charges (DC)	<b>Commercial Developer Charges.</b>	<ul style="list-style-type: none"> <li>• Development Servicing Plan<sup>#</sup> in accordance with Ref 6, with commercial developer charges.</li> </ul> <p><sup>#</sup> LWUs with growth of under 5 lots/a exempted.</p>	Page iv Ref 6 Appendix B
Liquid Trade Waste Approvals	<b>Liquid trade waste approval</b> issued to each trade waste discharger.	<ul style="list-style-type: none"> <li>• Liquid Trade Waste approvals issued in accordance with Ref 5.</li> <li>• Liquid Trade Waste Policy adopted and implemented in accordance with Ref 5.</li> </ul>	Ref 5 Appendix A



### Best-Practice Management of Water Supply and Sewerage Guidelines

Table 1 – Required Outcomes for Best-Practice Criteria			
Criterion (1)	Required Outcome (2)	Indicators to Demonstrate Achievement of Outcome (3)	Tools & Resources (4)
Dual Water Supplies	Complying tariffs for dual water supplies.	<ul style="list-style-type: none"> <li>• The potable water supply tariff in dual water supplies to comply with 2(b) above, except that step pricing is not a requirement.</li> <li>• For the non-potable component of dual water supplies:               <ul style="list-style-type: none"> <li>▪ LWUs are encouraged to install a non-potable water meter for each customer served where practical.</li> <li>▪ Appropriate non-potable water usage charge/kL based on long-run marginal cost.</li> <li>▪ Access charge relative to a customer's capacity requirements.</li> <li>▪ No land value based charges (ie. rates) and no "free" or "pre-paid" non-potable water allowance.</li> <li>▪ At least 50% of residential revenue<sup>†</sup> generated through usage charges.</li> </ul> </li> </ul> <p>+ Refer to the footnote to element 2 (b) above.</p>	Page 9 Ref 4 Appendix B
3 Water Conservation	<b>Sound</b> water conservation and <b>demand management</b> in place.	<ul style="list-style-type: none"> <li>• <b>Sound</b> water conservation and <b>demand management</b> implemented.</li> <li>• Identification of most cost-effective demand management initiatives.</li> <li>• Subsidisation and promotion of at least two of the identified demand management initiatives.</li> <li>• Include demand monitoring, leakage measurement and reduction and community education.</li> </ul>	Appendix C  COAG, NCP and NWI Page 52 of Ref 14 <i>Water Management Act 2000.</i>
4 Drought Management	<b>Sound drought management</b> in place.	<ul style="list-style-type: none"> <li>• Compile data on existing system, your LWU's drought management planning, including adoption of a schedule of trigger points for timely implementation of appropriate water restrictions.</li> <li>• <b>Sound drought management implemented in accordance with the LWU's adopted schedule.</b></li> </ul>	Appendix D Ref 19  <i>Water Management Act 2000.</i> <i>Local Government Act 1993.</i>



### Best-Practice Management of Water Supply and Sewerage Guidelines

Table 1 – Required Outcomes for Best-Practice Criteria			
Criterion (1)	Required Outcome (2)	Indicators to Demonstrate Achievement of Outcome (3)	Tools & Resources (4)
5 Performance Reporting	<b>Completed performance reporting forms</b> to DWE Review 2-page LWU Performance Report, prepare Action Plan.	<ul style="list-style-type: none"> <li>Reporting forms provided to DWE by 15 September each year.</li> <li>Draft of Special Schedules 3 to 6 and Notes 2 and 3 of the LWU's Special Purpose Financial Reports provided to DWE by 15 September each year.</li> <li>LWUs with over 10,000 connected properties to arrange auditing of their core performance indicators in accordance with the auditing requirements of the <i>National Performance Framework</i>.</li> <li>Action Plan provided to Council following review of your LWU's 2-page Performance Report (water, sewerage).</li> <li>Statement of Compliance to be submitted to DWE prior to payment of dividend from surplus (including Dividend Payment Form, Statement of Financial Performance of Business Activities, a Compliance Audit Report and an unqualified independent Financial Audit Report).</li> </ul>	COAG, NCP and NWI Page 31 of Ref 14, page 15 of Ref 15 and page 1 of Ref 16.
6 Integrated Water Cycle Management (IWCM)	<b>Sound IWCM implemented.</b>	<ul style="list-style-type: none"> <li>Completion of Integrated Water Cycle Management Evaluation by June 2007.</li> <li>Completion of Integrated Water Cycle Management Strategy by June 2008.</li> <li>Implementation of Integrated Water Cycle Management in accordance with the Strategy by June 2008.</li> </ul>	COAG, NCP and NWI Page 43 of Ref 14. WMA 2000.



## Best-Practice Management of Water Supply and Sewerage Guidelines



### References for Table 1

1. *Strategic Business Plans for Water Supply and Sewerage: Guidelines for Preparation*, Public Works, NSW, 1993.
2. *NSW Financial Planning Model (FINMOD) – Overview of Financial Planning, How FINMOD Works, User Manual*, Department of Land and Water Conservation, NSW, 2000.
3. *2005/06 NSW Water Supply and Sewerage Performance Monitoring Report*, Department of Water and Energy/Local Government Association and Shires Association, NSW.
4. *Water Supply, Sewerage and Trade Waste Pricing Guidelines*, Department of Land and Water Conservation, NSW, 2002
5. *Liquid Trade Waste Management Guidelines*, Department of Energy, Utilities and Sustainability, NSW, March 2005.
6. *Developer Charges Guidelines for Water Supply, Sewerage and Stormwater*, Department of Land and Water Conservation, NSW, 2002.
7. *Environmental Management Systems – Specification with guidelines for use*, International Standard ISO 14001.
8. *Integrated Water Cycle Management Guidelines for NSW Local Water Utilities*, Department of Energy, Utilities and sustainability, NSW, October 2004.
9. *Wise Water Management – A Demand Management Manual for Local Water Utilities*, Water Services Association of Australia, 1998.
10. *Planning Community Involvement in Water and Sewerage Projects*, Public Works, NSW, 1995.
11. *Occupational Health and Safety Act 2000 and Occupational Health and Safety Regulation 2001*.
12. *Asset Management Guidelines for Water Supply and Sewerage*, Public Works, NSW, 1991.
13. *Protection of the Environment Operations Act*, 1997.
14. *The 2003 National Competition Policy Assessment Framework for Water Reform*, National Competition Council, February 2003.
15. *Intergovernmental Agreement on a National Water Initiative*, Council of Australian Governments, June 2004.
16. *National Performance Framework – 2006-07 Urban Performance Reporting Indicators and Definitions*, National Water Commission/Water Services Association of Australia, May 2007.
17. *NSW Reference Rates Manual for Valuation of Water Supply, Sewerage and Stormwater Assets*, Ministry of Energy and Utilities, NSW, June 2003.
18. *Australian Drinking Water Guidelines*, National Health and Medical Research Council/National Resource Management Ministerial Council, 2004.
19. *Drought Management Guidelines*, NSW Local Government Water Directorate, December 2003



**Best-Practice Management of Water Supply and Sewerage Guidelines**



## Best-Practice Management of Water Supply and Sewerage Guidelines



## 6 Payment of Dividend

### 6.1 Eligibility for Payment

Check lists have been prepared to provide guidance for LWUs in addressing best-practice management (refer to Appendices A to F). It is NOT necessary to address the issues in Appendices B to F to be eligible for payment of a dividend. LWUs are required to demonstrate achievement of the required outcome for each criterion in column (3) of Table 1 (page 22) in order to be eligible for payment of a dividend from the surplus.

LWUs must also complete all the boxes in Item 1 of Attachment 1 (pages 32 and 33).

### 6.2 Statement of Compliance

To be eligible for payment of a dividend from the surplus, LWUs must complete the Statement of Compliance shown in Attachment 1 (page 34), and append a compliance audit report and an unqualified independent financial audit report.

### 6.3 Amount of Dividend

If your LWU is eligible to pay a dividend from the surplus, determine the maximum dividend payable from the surplus (Item 3 in pages 32 and 33 of Attachment 1).

### 6.4 Public Disclosure

For each of water supply and sewerage, prior to paying a dividend from the surplus, an LWU must resolve in a council meeting open to the public that it has achieved the required outcome for each criterion set out in Table 1 of these guidelines.

### 6.5 Reporting to Minister

LWUs that are eligible to pay a dividend from the surplus and elect to do so, must complete the Dividend Payment form shown in Attachment 1 (page 34) and forward the Statement of Compliance, the Dividend Payment form and the Statement of Financial Performance of Business Activities (page 18), together with a compliance audit report (page 15) and an unqualified independent financial audit report (page 15) to the Department of Water and Energy prior to payment of the dividend. The Department will advise the LWU whether it may pay the proposed dividend from the surplus within 5 working days. The Department will also audit LWU compliance with these guidelines and will report to the Minister for Water Utilities.

**Best-Practice Management of Water Supply and Sewerage Guidelines**



Best-Practice Management of Water Supply and Sewerage Guidelines  
Attachment 1



## ATTACHMENT 1 – PAYMENT OF A DIVIDEND

As all LWUs must pay a dividend for tax-equivalents (Item 2 overleaf), the total dividend paid for each of water supply and sewerage must be not less than the dividend for tax equivalents.

You can check your LWU's eligibility for payment of a dividend from the surplus by completing boxes (1) to (6) in Item 1 overleaf for water supply and boxes (1) to (4) on page 33 for sewerage. If your LWU is eligible to pay a dividend from the surplus, determine the maximum dividend payable from the surplus (Item 3 overleaf).

Prior to the payment of a dividend from the surplus, the LWU must obtain an independent compliance audit report (page 15) and an unqualified independent financial audit report (page 15).

If your LWU has elected to pay a dividend from the surplus, complete the Statement of Compliance (page 34), the Dividend Payment Form (page 34) and the Statement of Financial Performance of Business Activities (page 18). Forward these, together with the independent compliance audit report and the unqualified independent financial audit report to the Department of Water and Energy prior to payment of the dividend.

The Department will advise the LWU whether it may pay the proposed dividend from the surplus within 5 working days. The Department will also audit LWU compliance with these guidelines and will report to the Minister for Water Utilities.

Best-Practice Management of Water Supply and Sewerage Guidelines  
Attachment 1



Note to Special Purpose Financial Report

**Water Supply – Payment of Dividend for 2006/07**

1. Required Outcomes for 6 Criteria <sup>a</sup>	Yes	No
(1) Complete Strategic Business Plan (including Financial Plan)	<input type="checkbox"/>	<input type="checkbox"/>
(2) Pricing with full cost-recovery, without significant cross subsidies (Item 2(a) in Table1)	<input type="checkbox"/>	<input type="checkbox"/>
Complying charges		
(a) Residential (Item 2(b) in Table1)	<input type="checkbox"/>	<input type="checkbox"/>
(b) Residential Revenue* from Usage Charges at least 50% in 2006/07 (LWUs with under 4,000 connected properties don't need to recover more than 50% from usage charges) 60% in 2007/08 75% in 2008/09	<input type="checkbox"/>	<input type="checkbox"/>
(c) Non-residential (Item 2(b) in Table1)	<input type="checkbox"/>	<input type="checkbox"/>
DSP with Commercial Developer Charges (Item 2(e) in Table1)	<input type="checkbox"/>	<input type="checkbox"/>
(3) Complete Performance Reporting Form by 15 September each year	<input type="checkbox"/>	<input type="checkbox"/>
(4) Sound Water Conservation implemented	<input type="checkbox"/>	<input type="checkbox"/>
(5) Sound Drought Management implemented	<input type="checkbox"/>	<input type="checkbox"/>
(6) Integrated Water Cycle Management Strategy (by June 2008)	<input type="checkbox"/>	<input type="checkbox"/>
<b>2. Dividend for Tax-Equivalents<sup>b</sup></b>		
(1) Calculated Tax-Equivalents (TE)	<input type="text"/>	
(2) No. of assessments multiplied by \$3/assessment	<input type="text"/>	
<b>Dividend for TE<sup>c</sup></b> (lesser of (1) and (2))	<input type="text"/>	
<b>3. Dividend from Surplus<sup>c</sup></b>		
(1) 50% of 'Surplus before Dividends' (from <i>Special Purpose Financial Report</i> – Statement of Financial Performance of Water Supply Business Activities).	<input type="text"/>	
(2) No. of assessments multiplied by \$30/assessment, less Dividend for TE	<input type="text"/>	
(3) Cumulative 'Surplus before Dividends' for the 3 years to 30 June 2006, less the cumulative Dividends Paid for the 2 years to 30 June 2005 (from above Statement of Financial Performance of Water Supply Business Activities).	<input type="text"/>	
<b>Maximum Dividend from Surplus</b> (least of (1), (2) and (3))	<input type="text"/>	

<sup>a</sup> For a Local Water Utility (LWU) to be eligible for payment of a dividend from the surplus of its water supply business, it must be able to answer "yes" for each of items (1) to (5) above. Achievement of (6) is required by 30 June 2008.

<sup>b</sup> All local government LWUs must pay this dividend for tax-equivalents.

<sup>c</sup> The maximum dividend from surplus is the maximum dividend payable by an LWU which has demonstrated its achievement of the outcomes required in Table 1 of the *Guidelines for Best-Practice Management of Water Supply and Sewerage*. LWUs should also address the considerations in section 3.2 of the Guidelines.

\* As an alternative to consideration of the council's total projected residential revenue, council has the option of basing this calculation on its typical residential bill (ie. for a customer using the council's average annual residential consumption per connected property).



Best-Practice Management of Water Supply and Sewerage Guidelines  
Attachment 1



*Note to Special Purpose Financial Report*

COUNCIL OF/COUNCIL OF THE CITY OF .....

**STATEMENT OF COMPLIANCE<sup>a</sup>**  
**for the year ended 30th June 2007**

	YES	NO
<b>WATER SUPPLY</b>		
Council's Water Supply Business has demonstrated achievement of each of the outcomes in column (3) of Table1 of the <i>Best-Practice Management of Water Supply and Sewerage Guidelines<sup>b</sup></i> .	<input type="checkbox"/>	<input type="checkbox"/>
Council has resolved in a council meeting open to the public that it has complied with the <i>Best-Practice Management Guidelines<sup>b</sup></i> for its Water Supply business.	<input type="checkbox"/>	<input type="checkbox"/>
<b>SEWERAGE</b>		
Council's Sewerage Business has demonstrated achievement of each of the outcomes in column (3) of Table1 of the <i>Best-Practice Management of Water Supply and Sewerage Guidelines<sup>b</sup></i> .	<input type="checkbox"/>	<input type="checkbox"/>
Council has resolved in a council meeting open to the public that it has complied with the <i>Best-Practice Management Guidelines<sup>b</sup></i> for its Sewerage business.	<input type="checkbox"/>	<input type="checkbox"/>
<b>AUDIT REPORTS</b>		
Council has received and attached an independent compliance audit report verifying that the LWU has demonstrated achievement of the required outcomes in Table1 of the <i>Best-Practice Management Guidelines<sup>b</sup></i> .	<input type="checkbox"/>	<input type="checkbox"/>
Council has received and attached an unqualified independent financial audit report of its water supply/sewerage Special Purpose Financial Reports.	<input type="checkbox"/>	<input type="checkbox"/>

COUNCIL OF/COUNCIL OF THE CITY OF .....

**STATEMENT OF DIVIDEND PAYMENT**  
**for the year ended 30<sup>th</sup> June 2007**

	2007
<b>WATER SUPPLY</b>	
Dividend paid for tax-equivalents	<input type="text"/>
Dividend paid from surplus	<input type="text"/>
Total Dividend Paid for Water Supply Business	<input type="text"/>
<b>SEWERAGE</b>	
Dividend paid for tax-equivalents	<input type="text"/>
Dividend paid from surplus	<input type="text"/>
Total Dividend Paid for Sewerage Business	<input type="text"/>

<sup>a</sup> The Statement of Compliance and the Dividend Payment Form should only be forwarded to the Department of Water and Energy if Council has resolved to pay a dividend from the surplus.

<sup>b</sup> *Guidelines for Best-Practice Management of Water Supply and Sewerage*, Department of Water and Energy, NSW, June 2007.



## ATTACHMENT 2 – INTEGRATED WATER PRICING

### 1 Introduction

As appropriate pricing is fundamental to the effective and sustainable management of water utility businesses, the NSW Government will be working to remove the present impediment to use of integrated water pricing for water supply and sewerage services in the *Local Government Act, 1993*. Such an amendment will provide Local Water Utilities (LWUs) with the option of using integrated water pricing for their water supply and sewerage services.

There is no requirement for LWUs to implement integrated water pricing. However, an LWU which implements integrated water pricing in accordance with this attachment will meet the water supply and sewerage pricing requirements in elements 2(a), 2(b) and 2(c) in Table 1 of the *Best-Practice Management Guidelines*.

Integrated water pricing is a valuable tool for LWUs as it provides better pricing signals for residential customers to encourage demand management, water efficiency and better use of our valuable water resources.

### 2 The Integrated Water Pricing Concept

Integrated water pricing has the two components of best-practice pricing. That is, an appropriate usage charge/kL and an appropriate access charge as discussed below.

#### 2.1 Usage Charge

The usage charge is the key element of pay-for-use pricing and should be broadly based on the long-run marginal cost of the water supply and sewerage systems. The usage charge would be calculated using equation (1) below:

$$UC = [1.4 \times W_{OMA}] + [1.5 \times S_{OMA} \times SDF] \quad \text{Equation (1)}$$

Where:

UC	Usage charge (\$/kL)
1.4 and 1.5	Indicative estimate of the long-run marginal cost of the LWU's water supply (140%) and sewerage (150%)
$W_{OMA}$	Water supply operation, maintenance and administration (OMA) cost (\$/kL)  LWUs should estimate their future OMA cost per kilolitre for each of water supply and sewerage, taking into account new assets proposed in the LWU's strategic business plan and capital works program.
$S_{OMA}$	Sewerage operation, maintenance and administration (OMA) cost (\$/kL)
SDF	Residential sewer discharge factor. That is, the ratio of residential indoor water consumption to the total residential water consumption. A typical value for NSW is $SDF = 0.6$ . LWUs with sound recent studies of SDF for their residential customers should use their local SDF in equation (1) above.



Best-Practice Management of Water Supply and Sewerage Guidelines  
Attachment 2



## 2.2 Access Charge

The remainder of the revenue required for the financial sustainability of the water supply and sewerage businesses is obtained through an annual access charge which is independent of the level of consumption. The access charge is determined relative to the customer's capacity requirements, eg. proportional to the square of the size of the customer's water supply service connection as shown in equations (2) and (3) below.

$$AC_{\phi_{20}} = AC(W) + AC(S) \times SDF \quad \text{Equation (2)}$$

$$AC = AC_{\phi_{20}} \times [D^2 / 400] \quad \text{Equation (3)}$$

Where:

AC (W)	Water component of access charge (\$)
AC (S)	Sewerage component of access charge (\$)
AC <sub>φ<sub>20</sub></sub>	Annual access charge for a 20mm water supply service connection (\$)
AC	Annual access charge for a service connection larger than 20mm (\$)
D	Nominal diameter of customer's water supply service connection (mm)

LWUs may elect to adopt a nil access charge, in which case, the annual income would be generated from the usage charge, except for very low water users<sup>1</sup>.

## 3 Total Annual Bill

The total annual bill will be the sum of the annual access charge and the usage charge multiplied by the annual water consumption expressed in kilolitres.

$$B = AC + [UC \times C] \quad \text{Equation (4)}$$

Where:

B	Annual bill (\$)
C	Annual water consumption (kL)

### Example 1 – Residential

$W_{OMA}$	= \$1.072/kL
$S_{OMA}$	= \$1.00/kL
AC (W)	= \$100
AC (S)	= \$200
SDF	= 0.6
Minimum Bill	= \$400

From Equation (1)

$$\begin{aligned} UC &= [1.4 \times 1.072] + [1.5 \times 1.0 \times 0.6] \\ &= 1.5 + 0.9 \\ &= \$2.4/\text{kL} \end{aligned}$$

$$\begin{aligned} AC_{\phi_{20}} &= \$100 + \$200 \times 0.6 \\ &= \$220 \end{aligned}$$

<sup>1</sup> Very low water users would be required to pay the minimum bill, which may be about 50% of the typical residential bill.

Best-Practice Management of Water Supply and Sewerage Guidelines  
Attachment 2



For annual residential water consumptions of 200 kL/a, from Equation (4), the annual residential bill is:

$$\begin{aligned} B &= \$220 + 2.4 \times 200 \\ &= \$700 \end{aligned}$$

Similarly, for residential consumptions of 20 kL/a, 100 kL/a and 300 kL/a, the annual residential bills would be \$400 (minimum bill, calculated value is \$268 (220 + 2.4 x 20)), \$460 (220 + 2.4 x 100) and \$940 (220 + 2.4 x 300) respectively.

#### 4 Non-Residential Customers

The usage charge and access charge for non-residential customers would be determined using equations (1), (2) and (3) and the customer's sewer discharge factor and service connection size.

##### Example 2 – Non-Residential

Non-residential charges are examined below for the utility in Example 1 above.

**(A)** D = 20mm  
SDF = 0.6  
Water consumption = 200kL

From Equation (1)  

$$\begin{aligned} UC &= [1.4 \times 1.072] + [1.5 \times 1.0 \times 0.6] \\ &= 1.5 + 0.9 \\ &= \$2.4/\text{kL} \end{aligned}$$

From Equation (2)  

$$\begin{aligned} AC_{\phi 20} &= 100 + 200 \times 0.6 \\ &= \$220 \end{aligned}$$

From Equation (4)  

$$\begin{aligned} B &= 220 + 2.4 \times 200 \\ &= \$700 \end{aligned}$$

**(B)** As for (A), but water consumption = 20kL

From Equation (4)  

$$\begin{aligned} B &= 220 + 2.4 \times 20 \\ &= \$268 \end{aligned}$$

As this is less than the minimum bill of \$400, the minimum bill will apply.

**(C)** As for (A), but D = 40mm

From Equation (3)  

$$\begin{aligned} AC &= 220 \times (40^2/400) \\ &= \$880 \end{aligned}$$

From Equation (4)  

$$\begin{aligned} B &= 880 + 2.4 \times 200 \\ &= \$1,360 \end{aligned}$$

**(D)** As for (C), but water consumption = 1,000kL

From Equation (4)  

$$\begin{aligned} B &= 880 + 2.4 \times 1000 \\ &= \$3,280 \end{aligned}$$

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(E) As for (D), but SDF = 0.95

From Equation (1)

$$\begin{aligned} UC &= [1.4 \times 1.072] + [1.5 \times 1.0 \times 0.95] \\ &= \$2.925/\text{kL} \end{aligned}$$

From Equation (2)

$$\begin{aligned} AC_{\phi_{20}} &= \$100 + \$200 \times 0.95 \\ &= \$290 \end{aligned}$$

From Equation (3)

$$\begin{aligned} AC &= 290 \times (40^2/400) \\ &= \$1,160 \end{aligned}$$

From Equation (4)

$$\begin{aligned} B &= \$1,160 + 2.925 \times 1000 \\ &= \$4,085 \end{aligned}$$

LWUs will still be required to have appropriate trade waste fees and charges for all liquid trade waste dischargers, a trade waste usage charge for dischargers with prescribed pre-treatment, excess mass charges for large dischargers and industrial waste and a trade waste policy and approval for each liquid trade waste discharger in accordance with the *Liquid Trade Waste Management Guidelines, March 2005*.

## 5 Implementation

LWUs which elect to adopt integrated water pricing will also need to comply with the following outcomes for best-practice. These are based on elements 2(a) and 2(b) of Criterion 2 in Table 1 of the *Best-Practice Management Guidelines*, but exclude the requirement for step pricing for residential customers, ie:

- Appropriate tariffs without significant cross subsidies;
- The projected total annual income should be consistent with above financial plan. This generally results in a positive economic real rate of return (ERRR) and generates sufficient income to fund recurrent expenditures and capital investment;
- The total annual income received from access and usage charges is to be shared between the water supply and sewerage businesses in accordance with the percentage determined in the financial plan.
- Appropriate usage charge/kL based on long-run marginal cost;
- Access charge relative to a customer's capacity requirements;
- No land value based charges (ie. rates) and no "free" or "pre-paid" water allowance;
- LWUs with 4,000 or more connected properties to have at least 75% of residential revenue generated through usage charges;
- LWUs with less than 4,000 connected properties to have at least 50% of residential revenue generated through usage charges.

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## 6 Transfer of Funds between Water Supply and Sewerage Businesses

An LWU which has implemented integrated water pricing will be permitted to transfer funds between its water supply and sewerage businesses subject to demonstrating, to the satisfaction of the Minister for Water Utilities, that both its water supply and sewerage businesses will remain financially sustainable.

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## Appendix A - Water Supply and Sewerage: Strategic Business Planning & Financial Planning Check List – August 2007

The strategic business plan is a Local Water Utility's (LWU's) principal planning tool for its water supply and sewerage businesses.

This check list is essentially a road map and has been prepared to assist LWUs to quickly address the issues in a sound business plan as well as a number of more recent developments in strategic business planning.

A current strategic business plan and financial plan is one which has been prepared or updated within the last 3 years. Each LWU should update its financial plans annually.

### Strategic Business Plan – Check List

Topic	Outcome Achieved
1. Executive Summary	<ul style="list-style-type: none"> <li>❖ Covers all major issues, main actions, price path.</li> <li>❖ Includes a <i>plan</i> of the system.</li> </ul>
2. Operating Environment Review	<ul style="list-style-type: none"> <li>❖ All <i>principal issues</i> identified are <i>addressed</i> in the SBP.</li> </ul>
3. Performance Indicators	<ul style="list-style-type: none"> <li>❖ LWU's latest TBL Performance Report included.</li> <li>❖ Review of LWU's latest TBL Performance Report included, together with proposed corrective actions (refer to example on page 47 of Ref 3). This review should be consistent with the SBP.</li> </ul>
4. Levels of Service (LOS)	<ul style="list-style-type: none"> <li>❖ Are <i>clear, meaningful and measurable</i>.</li> <li>❖ A compliance monitoring and reporting system is in place.</li> <li>❖ Target LOS have been identified.</li> </ul>
5. Service delivery	<ul style="list-style-type: none"> <li>❖ Options examined and conclusions reported.</li> </ul>
6. Customer Service Plan	<ul style="list-style-type: none"> <li>❖ <i>Business objectives</i> developed for each key result area.</li> </ul>
6.1 Unserviced areas	<ul style="list-style-type: none"> <li>❖ <i>All serviced and unserviced towns and villages</i> listed showing the population and whether the present facilities are satisfactory.</li> <li>❖ Proposals for serving unserviced towns are included and discussed in the business plan and financial plan.</li> </ul>

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## Strategic Business Plan – Check List

Topic	Outcome Achieved
6.2 Pricing, Developer Charges, Trade Waste	
A. Full Cost Recovery	❖ Full cost recovery for each of the water supply and sewerage businesses (Ref 4, page 7). The total annual income should be consistent with the financial plan in Item 10. This generally results in a positive economic real rate return (ERRR).
B. Water Supply: Residential	❖ Pay-for-use: appropriate water usage charge/kL with no water allowance; independent of land value. Significant increase in the water usage charge/kL (50% to 100%) for discretionary consumption (Item 2b of Table 1 of these guidelines).
C. Sewerage: Residential	❖ Uniform annual sewerage bill per residential property, independent of land value (Ref 4, page 28).
D. Water Supply: Non-Residential	❖ Two-part tariff with appropriate water usage charge/kL and access charge.
E. Sewerage: Non-Residential	❖ Two-part tariff with appropriate sewer usage charge/kL and sewer discharge factor. Access charge reflective of the cost of providing these sewerage services.
F. Liquid Trade Waste Pricing	<ul style="list-style-type: none"> <li>❖ Appropriate trade waste fees and charges for <u>all</u> liquid trade waste dischargers (Ref 4, page 30).</li> <li>❖ Trade waste usage charge for dischargers with prescribed pre-treatment (Ref 4, page 34).</li> <li>❖ Excess mass charges for large dischargers and industrial waste (Ref 4, page 36).</li> </ul>
G. Liquid Trade Waste Policy and Approvals	❖ Trade Waste Policy in accordance with Ref 5 adopted. Trade waste approval issued to <u>each</u> liquid trade waste discharger (Ref 5).
H. Developer Charges	<ul style="list-style-type: none"> <li>❖ Development Servicing Plan<sup>+</sup> with commercial developer charges; disclosure of any cross-subsidies (Ref 6, page iv).</li> </ul> <p style="margin-left: 40px;">+ LWUs with a growth of under 5 lots/a exempted.</p>
I. Dual Water Supplies	❖ LWUs with a dual water supply ie. a potable reticulated water supply for indoor uses and a separate non-potable supply reticulated for outdoor uses to over 50% of their residential customers need to comply with element 2(g) of Criterion 2 in Table 1 on page 25 of these guidelines.
6.3 Environmental Management	❖ Summary of LWU's Environmental Management achievements is included.
6.4 Integrated Water Cycle Management	❖ Summary of integrated water cycle management is included.

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## Strategic Business Plan – Check List

Topic	Outcome Achieved
6.5 Demand Management	❖ Summary of LWU's demand management is included.
6.6 Drought Management	❖ Summary of LWU's drought management is included.
6.7 Community Consultation	❖ Summary of community consultation is included.
6.8 Occupational Health & Safety	❖ Summary of LWU's occupational health and safety achievements is included.
7. Asset Management Plan	<ul style="list-style-type: none"> <li>❖ Summary of changes required to O &amp; M procedures (eg. to operate new facilities) are reported, including impact on OMA expenditures.</li> <li>❖ Asset register completed (Ref 13).</li> <li>❖ Summary of best-practice operation plan is included (Ref 13).</li> <li>❖ Summary of best-practice maintenance plan is included. Also report your LWU's implementation of any DWE section 61 recommendations for corrective action with respect to water and sewage treatment works and dams.</li> <li>❖ <b>Capital works program</b> included showing a tabulation of proposed annual expenditure for each project, including cost-effective asset renewals. Capital works program is integrated with the strategic business plan to meet the target levels of service. <i>Template is available from DWE.</i></li> <li>❖ All major projects in the capital works program are discussed in the SBP and are consistent with the business objectives.</li> </ul>
8. Human Resources Plan	❖ <b>Organisation Chart</b> is included.
9. Action Plan	<ul style="list-style-type: none"> <li>❖ Actions listed and show the person responsible, <b>completion time and estimated cost.</b></li> <li>❖ The costs of the actions are included in the capital works program or in OMA expenditures.</li> </ul>



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## Financial Plan – Check List

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Topic	Outcome Achieved
10. Objective	<ul style="list-style-type: none"> <li>❖ The financial plan includes all foreseeable costs and income and achieves <b>the lowest uniform level of stable typical residential bills</b> (in Year 1\$) to meet the levels of service negotiated with the community.</li> <li>❖ Long-term <b>financial sustainability is demonstrated</b> to comply with National Competition Policy and the National Water Initiative.</li> </ul>
11. Financial Model	<ul style="list-style-type: none"> <li>❖ LWUs using the FINMOD software for their financial plan have used the latest version (FINMOD 2.1 or FINMOD 4.0).</li> </ul>
12. Timeframe	<ul style="list-style-type: none"> <li>❖ The financial plan covers a period of at least <b>20 years</b>.</li> </ul>
13. Growth and Number of Assessments	<ul style="list-style-type: none"> <li>❖ Input accurate numbers of existing residential and non-residential assessments.</li> <li>❖ New assessments for backlog water supply or sewerage projects are included in the growth projections.</li> <li>❖ Growth projections input into your LWU's financial planning are consistent with the SBP document.</li> </ul>
14. Rates	<ul style="list-style-type: none"> <li>❖ Appropriate values have been used. Such rates in June 2007 were: Inflation 2.5% pa Investment 5.5% pa Borrowing 6.5% pa</li> </ul>
15. Grants	<ul style="list-style-type: none"> <li>❖ No capital works grants are assumed after about 2015/16.</li> </ul>




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## Financial Plan – Check List

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Topic	Outcome Achieved
16. Forecast Data	<ul style="list-style-type: none"> <li>❖ Forecast data, such as future operation, maintenance and administration (OMA) costs and the revenue split (between annual residential income and annual non-residential income), have been carefully considered as part of the LWU's asset management planning.</li> <li>Common errors are               <ul style="list-style-type: none"> <li>● Neglecting to include increases in operation and maintenance costs associated with proposed capital works such as backlog sewerage or new water and sewage treatment works.</li> <li>● Neglecting to make appropriate provision for dividend and tax-equivalent payments (excluding income tax).</li> <li>● Neglecting to include future increases in non-residential water supply and sewerage income as a result of removing existing cross-subsidies.</li> <li>● Neglecting to include future increases in trade waste income from introducing appropriate trade waste fees and charges for <u>all</u> liquid trade waste dischargers.</li> <li>● Neglecting to include future commercial developer charges.</li> <li>● Neglecting to include the cost of actions in the SBP.</li> </ul> </li> <li>❖ Increases or reductions to OMA costs have been discussed in the SBP document.</li> </ul>
17. Residential Bills and Developer Charges	<ul style="list-style-type: none"> <li>❖ The financial plan has balanced typical residential bills and developer charges.</li> </ul>
18. Results	<ul style="list-style-type: none"> <li>❖ The input data, key output graphs and the full projected results and financial statements (ie. Statement of Financial Performance, Statement of Financial Position and Cash Flow Statement) are included for the preferred case. Results are presented in Year 1\$ (ie. not inflated \$).</li> </ul>

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## Financial Plan – Check List

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Topic	Outcome Achieved
19. Sensitivity Analysis	<ul style="list-style-type: none"> <li>❖ Sensitivity Analysis has been carried out and results are included.</li> <li>❖ A description of the cases analysed, and the reasons for their selection have been included in the SBP document.</li> </ul>
20. Price Path	<ul style="list-style-type: none"> <li>❖ Price path adopted for the typical residential bill over the next 5 years in Year 1\$. This provides some price certainty to the LWU's customers.</li> </ul>

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## REFERENCES

1. *Strategic Business Plans for Water Supply and Sewerage: Guidelines for Preparation*, Public Works, NSW, 1993.
2. *NSW Financial Planning Model (FINMOD) – Overview of Financial Planning, How FINMOD Works, User Manual*, Department of Land and Water Conservation, NSW, 2000.
3. *2005/06 NSW Water Supply and Sewerage Performance Monitoring Report*, Department of Water and Energy/Local Government Association and Shires Association, NSW.
4. *Water Supply, Sewerage and Trade Waste Pricing Guidelines*, Department of Land and Water Conservation, NSW, 2002.
5. *Liquid Trade Waste Management Guidelines*, Department of Energy, Utilities and Sustainability, NSW, March 2005.
6. *Developer Charges Guidelines for Water Supply, Sewerage and Stormwater*, Department of Land and Water Conservation, NSW, 2002.
7. *Environmental Management Systems – Specification with guidelines for use*, International Standard ISO 14001.
8. *Integrated Water Cycle Management Guidelines for NSW Local Water Utilities*, Department of Energy, Utilities and Sustainability, NSW, October 2004.
9. *Wise Water Management – A Demand Management Manual for Local Water Utilities*, Water Services Association of Australia, 1998.
10. *Water Supply and Sewerage Management Guidelines*, NSW Government, 1991.
11. *Planning Community Involvement in Water and Sewerage Projects*, Public Works, NSW, 1995.
12. *Occupational Health and Safety Act 2000 and Occupational Health and Safety Regulation 2001*.

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13. *Asset Management Guidelines for Water Supply and Sewerage*, Public Works, NSW, 1991.

## NOTES

1. Full achievement of the required outcome for Item 6.2G is required for meeting the liquid trade waste policy and approvals requirements in Table 1 on page 24 of the *Best-Practice Management Guidelines*.
2. LWUs with a dual water supply need to comply with 'I' of Item 6.2 in order to meet the requirements in element 2(g) of Criterion 2 in Table 1 on page 25 of the *Best-Practice Management Guidelines*.
3. For further information, assistance and copies of the reference documents, please contact Sam Samra, Senior Manager Water Utility Performance on 8281 7435 or [Sam.Samra@dwe.nsw.gov.au](mailto:Sam.Samra@dwe.nsw.gov.au)
4. LWUs should continue to forward a copy of their completed strategic business plan and financial plan to DWE:

Senior Manager Water Utility Performance  
Department of Water and Energy  
Level 18  
227 Elizabeth Street  
Sydney NSW 2000

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## Appendix B – Pricing and Developer Charges

### Section 1: Water Supply, Sewerage and Trade Waste Pricing

#### Check List – August 2007

Best-practice pricing of Local Water Utility (LWU) water supply, sewerage and liquid trade waste services is fundamental to effective management of water supply and sewerage businesses. Appropriate tariffs ensure fair pricing of services, removal of significant cross-subsidies and protection of our valuable water resources and environment.

The main reference for the implementation of best-practice pricing is Ref 1 – *Water Supply, Sewerage and Trade Waste Pricing Guidelines*.

To comply with the *COAG Strategic Framework for Water Reform, National Competition Policy* and the *National Water Initiative*, each LWU needs to achieve:

- Full cost-recovery for its water supply business and for its sewerage business (Ref 1, page 7).
- Appropriate water supply tariff with appropriate water usage/kL, no land value (ie. rates) in charges, no water allowance.
- Appropriate sewerage tariff with a uniform annual sewerage bill per residential property (Ref 1, page 28), two-part tariff with appropriate sewer usage charge/kL for non-residential customers (Ref 1, page 29, 31) and no land value (ie. rates) in sewerage charges (Ref 1, page 31).
- Annual trade waste fee for all liquid trade waste dischargers (Ref 6, page 208), trade waste usage charges for dischargers with prescribed pre-treatment (Ref 6, page 209) and excess mass charges for large dischargers of industrial waste (Ref 6, pages 209 to 212).

The NSW Water Supply Pricing software and the NSW Sewerage and Trade Waste Pricing Software will simplify development and analysis of tariff options. In addition, the Typical Residential Bill (TRB) and the total annual income should be on the basis of a sound financial plan.

This check list is essentially a road map to assist LWUs to quickly address the issues in Ref 1 and Ref 6. It also highlights common deficiencies in tariffs. Each LWU should use the check list to ensure that it has addressed the necessary issues. Each LWU should also annually review its tariffs to ensure they are raising the required income for its water supply and sewerage businesses.

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## Water Supply Pricing – Check List

Topic	Outcome Achieved
1. Tariff	<p>A. ❖ Two-part tariff with an appropriate water usage charge/kL based on the long-run marginal cost.</p> <p>B. ❖ To encourage water conservation, high water consuming residential customers should be subjected to a step price increase of at least 50% for incremental usage above a specified threshold. This threshold should not exceed 450 kL/a per household, except for LWUs outside the DWE Coastal and Tablelands Zone with a high incidence of evaporative air coolers, where a threshold of up to 600kL/a per household may be used (refer to page 9 of these Guidelines).</p> <p>C. ❖ Does <u>not</u> involve a water allowance, land value based charges (rates) or a declining block tariff (Ref 1, page 12).</p> <p>D. ❖ Raises required income to ensure full cost-recovery, the long-term financial sustainability of the water supply business and minimising of customer bills (Ref 1, page 7).</p> <p>E. ❖ Except for LWUs with under 4,000 connected properties, residential water use charges should recover at least 75% of residential revenue (refer to page 8 of these Guidelines). LWUs with under 4,000 connected properties will need to recover at least 50% of residential revenue from usage charges.</p>
2. Access charge	<p>❖ Annual access charges reflective of customer's demands on the system.</p>
3. Residential Units	<p>A. ❖ Each <b>strata title</b> unit treated as a single residential assessment with a 20mm service connection (Ref 1, page 14). Pensioners can thus receive the \$87.50 pensioner rebate from their bill (sections 501, 502 and 575 (3) (b) of <i>Local Government Act 1993</i>).</p> <p>B. ❖ Similarly, a block of say 4 Torrens Title residential units are to be treated as 4 single residential assessments, each with a 20mm service connection.</p> <p>C. ❖ <b>Company or community title</b> units treated as a single non-residential customer under a <b>two-part tariff</b>. However, under an <b>inclining block tariff</b> such properties must be disaggregated into the appropriate number of units and treated as described above for strata title units (Ref 1, page 14).</p>

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## Water Supply Pricing – Check List

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Topic	Outcome Achieved
4. Tariff implementation	<p>A. ❖ Examined impact of new tariff on the bills for representative customers (Ref 1, page 20).</p> <p>B. ❖ Undertaken community consultation.</p> <p>C. ❖ Any phasing-in of charges should be on the basis of the adopted best-practice tariff.</p> <p>D. ❖ Phased-in increases over 5 years for non-residential customers facing large increases (Ref 1, page 21).</p> <p>E. ❖ LWUs should include both water access charges and water usage charges in each bill to customers. In addition, LWUs should move to comply with forthcoming national recommendations on the layout and content of customer bills under Item 66(iv) of the National Water Initiative<sup>2</sup>.</p>
5. Data Management	<p>❖ Appropriate customer data compiled, including customer identifier, metered annual water consumption, service connection size and customer category (Ref 1, page 52).</p>

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<sup>2</sup> National Guidelines for Residential Customers' Water Accounts 2006, Natural Resource Management Ministerial Council.





## Sewerage and Trade Waste Pricing – Check List

Topic	Outcomes Achieved
6. Sewerage Tariff	<p>A. ❖ Uniform annual sewerage bill per residential property (Ref 1, page 28).</p> <p>B. ❖ Two-part sewerage tariff for non-residential customers (Ref 1, page 29).</p> <p>C. ❖ Does <u>not</u> involve land value based tariffs (rates), uniform annual charges or declining block tariffs (Ref 1, page 27).</p> <p>D. ❖ Raises required income to ensure full cost-recovery, the long-term financial sustainability of the sewerage business and minimising of customer bills (Ref 1, page 7).</p>
7. Sewer Usage Charge	❖ Sewer usage charge/kL reflects the long-run marginal cost of sewerage business (Ref 1, page 29).
8. Sewerage Access Charge	❖ Annual non-residential sewerage access charge reflective of customer's peak load on the system (Ref 1, page 31).
9. Residential Units	<p>A. ❖ Each <b>strata title</b> residential unit or flat treated as a residential assessment (ie. no distinction between houses and flats)</p> <p>B. ❖ Similarly, a block of say 4 Torrens Title residential units are to be treated as 4 residential assessments.</p> <p>C. ❖ A block of <b>company or community title</b> units or flats treated as a single non-residential assessment.</p>
10. Sewer Discharge Factor	❖ The volume of sewage discharged to the sewerage system may be estimated using a <b>sewer discharge factor</b> times the metered water consumption (Ref 1, pages 29 and 93).
11. Trade Waste Tariffs	<p>A. ❖ All liquid trade waste dischargers requiring <b>nil or minimal pre-treatment</b> pay an annual trade waste fee and a re-inspection fee, where required (Ref 1, page 33).</p> <p>B. ❖ All liquid trade waste dischargers with <b>prescribed pre-treatment</b> pay an annual trade waste fee and a re-inspection fee (where required) together with an appropriate trade waste usage charge/kL for all liquid trade waste discharged to the sewerage system (Ref 1, page 34).</p>



## Sewerage and Trade Waste Pricing – Check List

Topic	Outcomes Achieved
	C. ❖ All <b>large liquid trade waste dischargers</b> (over 20kL/d) and <b>dischargers of industrial waste</b> pay an annual trade waste fee and re-inspection fee (where required) together with an excess mass charge/kg of pollutants discharged (Ref 1, page 36, Ref 6, pages 209 to 211).
12. Trade Waste Dischargers with Prescribed Pre-treatment	<p>A. ❖ An appropriate trade waste usage charge levied for such dischargers <b>with appropriately sized and maintained pre-treatment facilities</b> (Ref 1, page 35).</p> <p>B. ❖ A much higher trade waste usage charge levied for such dischargers <b>without appropriately sized and maintained pre-treatment facilities</b> (Ref 1, page 35).</p>
14. Excess Mass Charges for Large Trade Waste Dischargers and Industrial Waste	<p>A. ❖ Appropriate excess mass charges apply for all such dischargers exceeding the concentration of pollutants in domestic sewage (ie. BOD 300mg/L; SS 300mg/L; Oil/Grease 50mg/L; Ammonia (as N) 35mg/L; N (as TKN) 50mg/L; P 10mg/L; TDS 1000mg/L) (Ref 1, pages 37, 97 and 98, Ref 6, pages 209 to 211).</p> <p>B. ❖ Non-compliance excess mass charges to apply for dischargers which fail to meet the LWU's approval conditions (Ref 6, pages 211 and 212).</p>
14. Trade Waste Discharge Factor	❖ The volume of liquid trade waste discharged to the sewerage system may be estimated using a <b>trade waste discharge factor</b> times the metered water consumption (Ref 1, pages 35 and 93).
15. Tariff Implementation	<p>A. ❖ Examined impact of new tariff options on the sewerage and trade waste bills for representative customers (Ref 1, page 40).</p> <p>B. ❖ Undertaken community consultation.</p> <p>C. ❖ Any phasing-in of charges should be on the basis of the sewer usage charge and trade waste fees and charges in the adopted best-practice tariff (Ref 1, page 43).</p> <p>D. ❖ Any large increase in non-residential sewerage customer bills phased-in over 5 years (Ref 1, page 43). Similarly, any large increases in trade waste fees and charges phased-in over a period of up to 3 years (Ref 6, page 206).</p>

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## Sewerage and Trade Waste Pricing – Check List

Topic	Outcomes Achieved
16. Data Management	❖ Appropriate customer data compiled including customer identifier, metered annual water consumption, water service connection size, customer category, business type, sewer discharge factor, trade waste customer category and trade waste discharge factor (Ref 1, page 52).

### REFERENCES

1. *Water Supply Sewerage and Trade Waste Pricing Guidelines*, Department of Land and Water Conservation, NSW, 2002.
2. *NSW Financial Planning Model (FINMOD) – Overview of Financial Planning, How FINMOD Works, User Manual*, Department of Land and Water Conservation, NSW, 2000.
3. *2004/05 NSW Water Supply and Sewerage Performance Monitoring Report*, Department of Water and Energy/Local Government Association and Shires Association, NSW.
4. *Wise Water Management – A Demand Management Manual for Local Water Utilities*, Water Services Association of Australia, 1998.
5. *Planning Community Involvement in Water and Sewerage Projects*, Public Works, NSW, 1995.
6. *Liquid Trade Waste Management Guidelines*, Department of Energy, Utilities and Sustainability, NSW, March 2005.

### NOTES

1. For further information, assistance and copies of the pricing software and reference documents, please contact Scott Chapman, Manager Best Practice on 8281 7335 or [Scott.Chapman@dwe.nsw.gov.au](mailto:Scott.Chapman@dwe.nsw.gov.au)



## Section 2 - Water Supply and Sewerage Developer Charges

Developer charges have two related functions:

1. they provide a source of funding for infrastructure required for new urban development, and
2. they provide signals regarding the cost of urban development and thus encourage less costly forms and areas of development.

Local Water Utilities (LWUs) should use this check list as a road map to ensure they have addressed the necessary issues.

The main reference for the implementation of Developer Charges is Ref 1 - *Developer Charges Guidelines for Water Supply, Sewerage and Stormwater*.

This check list has been prepared to assist LWUs to quickly address the issues in developer charges for water supply and sewerage and comprises the main elements of Ref 1. It also highlights common errors in developer charges calculations and Development Servicing Plans (DSPs).

Water Supply and Sewerage Developer Charges Check List		Common Errors
Topic	Outcome Achieved	
1. Procedure	<p><b>LWUs:</b></p> <ul style="list-style-type: none"> <li>❖ Establish whether your <b>LWU</b> is to prepare (Ref 1, pages 7, 8):               <ol style="list-style-type: none"> <li>(a) DSP</li> <li>(b) Policy document<sup>3</sup>, or</li> <li>(c) Exemption document<sup>4</sup>.</li> </ol> </li> </ul> <p><b>Note:</b> An LWU must prepare either a DSP with commercial developer charges or an exemption document in order to comply with the <i>Best-Practice Management Guidelines</i> (refer to Note 1 on page 59).</p>	<ul style="list-style-type: none"> <li>▪ An LWU which does not wish to levy Developer Charges for water supply and sewerage is required to prepare a formal policy document<sup>3</sup> or an exemption document<sup>4</sup>.</li> </ul>
2. Timing	<ul style="list-style-type: none"> <li>❖ DSP (or other documents) for water supply and sewerage need to be implemented and registered with Department of Water and Energy (Ref 1, page 7).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Under-estimating the time required to prepare, exhibit and adopt DSPs.</li> </ul>

<sup>3</sup> For an LWU with growth of 5 or more lots/a. An LWU which prepares a policy document will not comply with the *Best-Practice Management Guidelines*.

<sup>4</sup> For an LWU with growth of under 5 lots/a.

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Water Supply and Sewerage Developer Charges Check List		Common Errors
Topic	Outcomes Achieved	
3. Service Area	<ul style="list-style-type: none"> <li>❖ Determine service areas and the capital cost for each service area. A service area typically comprises the area serviced by a separate water supply distribution system, sewage treatment works, small towns/villages or a development area of &gt;500 lots (Ref 1, page 19).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Too many service areas.</li> <li>▪ Parts of the town are not covered by a service area.</li> </ul>
4. The Capital Charge	<ul style="list-style-type: none"> <li>A. ❖ Calculate the capital cost for each service area (Ref 1, page 19).</li> <li>B. ❖ Include all existing or new assets required, or likely to be required to serve a development area (Ref 1, page 15).</li> <li>C. ❖ Do <b>not</b> reduce capital cost for any government subsidy or similar payment (Ref 1, page 59).</li> <li>D. ❖ Ensure capital works program is comprehensive, with sufficient infrastructure to serve the projected development (Ref 1, page 15).</li> <li>E. ❖ Exclude reticulation and future renewals. Also exclude out-of-sequence development, where the full capital cost of the assets has been met by the developer (Ref 1, page 15).</li> <li>F. ❖ Value existing assets on the basis of MEERA* cost (Ref 1, page 18, Ref 7).</li> <li>G. ❖ Add Return on Investment (ROI) to the Capital cost, using either the ROI factor or spreadsheet approach (Ref 1, page 21).</li> <li>H. ❖ LWUs must carefully estimate their future annual water demand per ET and peak day demand per ET on the basis of appropriate water supply pricing (Ref 2, page 9), demand management and recorded water consumption per connected residential property.</li> <li>I. ❖ Calculate Capital Cost/Capital Charge per ET by dividing the cost of assets by the capacity (Ref 1, pages 20, 21).</li> <li>J. ❖ Agglomerate service areas where the capital charge is within 30% of the highest to minimise the number of DSPs (Ref 1, Page 19).</li> <li>K. ❖ Calculate the weighted average capital charge and the capital charge for each DSP area (Ref 1, pages 19, 94).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Failure to include all assets eg. future sewage transport systems.</li> <li>▪ Failure to include assets beyond 5 years, that are clearly serving development (eg. a future water treatment works).</li> <li>▪ Failure to include pre-1970 water supply headworks.</li> <li>▪ Failure to use 1996 as the effective year of commissioning for pre-1996 assets.</li> <li>▪ Over-estimation of demand per ET.</li> <li>▪ Failure to agglomerate service areas in accordance with Ref 1, page 19.</li> </ul>

\* MEERA – Modern Engineering Equivalent Replacement Asset

Best-Practice Management of Water Supply and Sewerage Guidelines  
Appendix B



Water Supply and Sewerage Developer Charges Check List		Common Errors
Topic	Outcomes Achieved	
5. The Reduction Amount	<ul style="list-style-type: none"> <li>❖ Select method to be used (Ref 1, page 33): <ul style="list-style-type: none"> <li>▪ NPV of annual charges (to be used where a robust 30-year financial plan is available), or</li> <li>▪ Direct NPV, or</li> <li>▪ Under 2000 assessments (small LWU, low growth).</li> </ul> </li> <li>❖ Calculate <b>one</b> reduction amount using <b>one</b> of the methods only (Ref 1, page 34).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Choosing inappropriate method.</li> <li>▪ Using more than <b>one</b> method.</li> </ul>
6. The Reduction Amount: <i>NPV of Annual Charges</i>	<ul style="list-style-type: none"> <li>A. ❖ Ensure you have at least a 30-year financial plan and capital works program (Ref 1, page 34).</li> <li>B. ❖ Base operating costs on the most efficient and lowest cost means of providing the service (Ref 1, page 35).</li> <li>C. ❖ Following the input of developer charges into your financial model (eg. FINMOD), alter the TRB (to reflect the new reduction amount) and copy the new revenue into the calculator spreadsheet.</li> <li>D. ❖ Typically the calculation should require approximately 3 iterations. Suggested initial estimate of reduction amount: (projected TRB – Operating cost/assessment) x 10</li> </ul>	<ul style="list-style-type: none"> <li>▪ Financial plan incomplete, or too short</li> <li>▪ Inconsistent data used in the DSP and financial plan (eg. growth projections, capital works).</li> </ul>
7. The Reduction Amount: <i>Direct NPV</i>	<ul style="list-style-type: none"> <li>❖ This method may be used in the absence of a financial plan (Ref 1, page 33).</li> <li>❖ Ensure you have a 30-year capital works program with new works divided into works to improve levels of service and works for growth, together with 50-year renewals program (Ref 1, page 40).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Inconsistent data input.</li> </ul>
8. The Reduction Amount: <i>Under 2000 Assessments</i>	<ul style="list-style-type: none"> <li>❖ Use only for LWUs with under 2000 assessments for water supply or sewerage, with low growth (Ref 1, page 46).</li> <li>❖ Use for LWUs with a number of tariff areas (each tariff area with under 2000 assessments – Ref 1, page 45).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Using this method where high growth is expected.</li> </ul>

Best-Practice Management of Water Supply and Sewerage Guidelines  
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Water Supply and Sewerage Developer Charges Check List		Common Errors
Topic	Outcome Achieved	
9. The Developer Charge	<p>A. ❖ Subtract the reduction amount from the capital charge for each DSP area to obtain the <u>maximum developer charge for the DSP</u> (Ref 1, page 47). LWUs may <u>not</u> charge higher developer charges than the maximum calculated value for each DSP area (Ref 1, page 47).</p> <p>B. ❖ Adjust for areas with different OMA cost or different tariff (Ref 1, page 45).</p> <p>C. ❖ Adopt a <b>commercial developer charge</b> based on social, financial and environmental considerations (Ref 1, page 47). Disclose any <b>cross-subsidies</b> in DSP, Annual Report and in communication materials for consultation with stakeholders.</p> <p>D. ❖ Where lower developer charges are to be levied, consider conveying locational signals by maintaining relativity between DSPs (Ref 1, page 1).</p>	<ul style="list-style-type: none"> <li>▪ Adopting developer charge that is the weighted average of two or more DSP areas. This leads to some DSP areas being incorrectly charged higher than the calculated maximum developer charge.</li> <li>▪ Failure to understand the full financial and social impacts of levying a lower developer charge than the calculated maximum.</li> <li>▪ Failure to clearly disclose cross-subsidies.</li> </ul>
10. Documentation	<p>A. ❖ LWUs may use the Model Development Servicing Plan (Ref 1, pages 111 to 126) as the framework for their DSP. An electronic version of the model plan is available to assist LWUs (see note 2 overleaf).</p> <p>B. ❖ DSP contents in accordance with the guidelines (Ref 1, page 9).</p> <p>C. ❖ Background document(s) identified and referred to in the DSP (Ref 1, page 9).</p> <p>D. ❖ A separate DSP is required for each DSP area, and for each of water supply and sewerage (Ref 1, page 10). LWUs may elect to bind the DSPs as one document.</p>	<ul style="list-style-type: none"> <li>▪ DSP lacks clarity and has insufficient information.</li> <li>▪ A single DSP covers more than one DSP area or covers water supply and sewerage.</li> <li>▪ Cross-subsidies not disclosed.</li> </ul>
11. Exhibition	<p>A. ❖ Exhibit for at least 30 working days (Ref 1, page 10).</p> <p>B. ❖ Inform industry bodies and developers (Ref 1, page 10).</p> <p>C. ❖ Consider submissions on the draft DSPs (Ref 1, page 11).</p>	<ul style="list-style-type: none"> <li>▪ Short exhibition period.</li> <li>▪ Insufficient consideration of submissions received.</li> </ul>



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Water Supply and Sewerage Developer Charges Check List		Common Errors
Topic	Outcome Achieved	
12. Adopt DSP A.	❖ LWU formally adopts DSP (Ref 1, page 10).	▪ No reference in Management Plan.
B.	❖ Foreshadow in Management Plan that Council is preparing new DSPs for water supply, sewerage and/or stormwater and that developer charges will be in accordance with the DSPs.	
C.	❖ Register DSP with Department (Ref 1, page 10).	

## REFERENCES

1. *Developer Charges Guidelines for Water Supply, Sewerage and Stormwater*, Department of Land and Water Conservation, NSW, 2002.
2. *Water Supply, Sewerage and Trade Waste Pricing Guidelines*, Department of Land and Water Conservation, NSW, 2002.
3. *Wise Water Management – A Demand Management Manual for Local Water Utilities*, Water Services Association Australia, 1998.
4. *2005/06 NSW Water Supply and Sewerage Performance Monitoring Report*, Department of Water and Energy/Local Government Association and Shires Association, NSW.
5. *NSW Financial Planning Model (FINMOD) – Overview of Financial Planning, How FINMOD Works, User Manual*, Department of Land and Water Conservation, NSW, 2000.
6. *Planning Community Involvement in Water and Sewerage Projects*, Public Works, NSW, 1995.
7. *NSW Reference Rates Manual for Valuation of Water Supply, Sewerage and Stormwater Assets*, Ministry of Energy and Utilities, NSW, 2003.

## NOTES

1. Unless the LWU is eligible to prepare an exemption document (Item 1), achievement of Item 9C is essential for meeting the developer charges requirements in Table 1 on Page 24 (criterion 2) of the *Best-Practice Management Guidelines*.
2. For further information, assistance and copies of the reference documents, please contact Scott Chapman, Manager Best Practice on 8281 7335 or [Scott.Chapman@dwe.nsw.gov.au](mailto:Scott.Chapman@dwe.nsw.gov.au)



Best-Practice Management of Water Supply and Sewerage Guidelines  
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## Appendix C – Water Conservation

### Check List – August 2007

Best-practice water conservation and demand management are essential for efficient management of a Local Water Utility's (LWU's) water supply business and for efficient use of water resources. Cost-effective demand management measures deliver significant environmental and social benefits and help minimise customer water supply bills through lower capital and operating costs.

A permanent reduction in demand achieved through demand management serves the same purpose as an increase in supply capacity – such as building new treatment or storage facilities. LWUs have often found many demand management actions to be more cost-effective than increasing supply capacity. When demand is reduced, benefits accrue through deferral and downsizing of the capacity of new capital works and lower treatment and transfer costs.

A key part of managing demand is understanding how and when water is used. A demand management program therefore requires metering of all customers supplied, together with demand analysis.

Demand management measures that should be examined as part of a demand management program include:

- Implementation of permanent water saving measures to minimise wastage, in accordance with Item 91 (iii) of the National Water Initiative<sup>5</sup>
- Active intervention – appropriate retrofit, rebate and building code programs
- Water pricing reform
- Community education
- Effluent and stormwater re-use.

LWUs should also pursue active programs to identify and reduce system water loss through leakage reduction.

This check list is essentially a road map to assist LWUs to quickly implement sound demand management measures. Each LWU should also review its demand management measures every 2 years to ensure that it has an appropriate balance between demand and supply-side investment.

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## Water Conservation and Demand Management – Check List

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Topic	Outcome Achieved
1. Demand Monitoring	<p>A. ❖ Bulk water production metered and recorded on a daily basis.</p> <p>B. ❖ All new free standing and multi-unit residential developments (both strata and non-strata) approved after 1 July 2004 must be separately metered.</p>

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<sup>5</sup> Review the effectiveness of temporary water restrictions and associated public education strategies, and assess the scope for extending low level restrictions as standard practice.




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## Water Conservation and Demand Management – Check List

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Topic	Outcome Achieved
	<p>C. ❖ All free standing residential premises must be separately metered by 1 July 2007.</p> <p>D. ❖ LWUs should encourage separate metering of existing multi-unit residential developments, where cost-effective.</p> <p>E. ❖ Customer water consumption billed <u>at least</u> three times a year (and preferably quarterly).</p> <p>F. ❖ Customers classified in accordance with the categories defined in the latest <i>NSW Water Supply and Sewerage Performance Monitoring Report</i> and consumptions reported annually.</p> <p>G. ❖ If facing augmentation of the peak day capacity of your system, monitor and record service reservoir levels on a daily basis in high demand periods.</p>
2. Demand Forecasting	<p>A. ❖ Historical records corrected for influence of climate.</p> <p>B. ❖ Data records screened for errors.</p> <p>C. ❖ Demand forecasts prepared for each customer category as well as for leakage and unaccounted for water (UFW).</p>
3. Demand Management Planning	<p>A. ❖ Examined a range of long-term demand management measures including:</p> <ul style="list-style-type: none"> <li>- retrofit programs</li> <li>- rebates for water efficient appliances</li> <li>- rebates for rainwater tanks</li> <li>- rebates for garden mulch</li> <li>- effluent and stormwater re-use programs.</li> </ul> <p>B. ❖ Completed benefit/cost analysis of demand management measures that includes benefits from reduced capital works and lower operating costs.</p> <p>C. ❖ Completed investment schedule/plan for implementing cost-effective demand management measures.</p>
4. Implementation	<p>A. ❖ Subsidised and promoted at least two of the identified demand management initiatives, referred to in 3. above.</p> <p>B. ❖ Examined the implementation of permanent water saving measures to minimise wastage, in accordance with Item 91 (iii) of the National Water Initiative.</p> <p>C. ❖ Implemented a cost-effective leakage reduction program to reduce system water losses.</p> <p>D. ❖ Ongoing customer education campaign focussing on the importance of conserving our valuable water resources.</p>

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## Water Conservation and Demand Management – Check List

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Topic	Outcome Achieved
	<p>E. ❖ If average residential water use per property exceeds that for the median NSW utility (290 kL/a in 2002/03) by over 20%, the LWU must show progress towards achieving a reduction in average residential use by 1 July 2007.</p> <p>F. ❖ Monitoring program for reviewing the effectiveness of the implemented demand management measures.</p>

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### REFERENCES

1. *2005/06 NSW Water Supply and Sewerage Performance Monitoring Report*, Department of Water and Energy/Local Government Association and Shires Association, NSW.
2. *Water Demand Trend Tracking & Climate Correction – User manual*, Department of Land and Water Conservation, NSW, 2002.
3. *Demand Management Decision Support System – User Manual*, Department of Land and Water Conservation, NSW, 2002.

For further information, assistance and copies of the reference documents, please contact George Freeman, Manager Integrated Water Cycle Management on 8281 7341 or [George.Freeman@dwe.nsw.gov.au](mailto:George.Freeman@dwe.nsw.gov.au)

Best-Practice Management of Water Supply and Sewerage Guidelines  
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## Appendix D - Drought Management

### Check List – August 2007

A comprehensive drought management plan details the demand and supply issues to be addressed during drought conditions and includes adoption of a schedule of trigger points for the timely implementation of appropriate water restrictions. Appropriate drought management planning will ensure that town water supplies with significant storage do not fail in times of drought.

Drought management planning includes documenting basic data on water demands, rainfall, evaporation, records of past droughts, the existing water supply system, and its water resources, and strategies to achieve the objective of having sufficient water to satisfy the basic needs of the community.

This check list is essentially a road map to assist LWUs to quickly implement sound drought management planning. LWUs should have a sound drought management plan in place and be ready to implement their plan when drought conditions arise.

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### Drought Management – Check List

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Topic	Outcome Achieved
1. Executive Summary	<ul style="list-style-type: none"> <li>❖ Covers all major issues, objectives, planning, strategies and monitoring for existing essential supplies of water to the service area(s).</li> <li>❖ Includes a summary of the drought management plan and an adopted schedule of trigger points for timely implementation of appropriate water restrictions.</li> </ul>
2. Background	<ul style="list-style-type: none"> <li>A. ❖ Includes the existing water supply system(s) in the service area(s) and a locality map.</li> <li>B. ❖ Includes history of past droughts.</li> <li>C. ❖ Includes information on the impact of past droughts on water services, eg. restrictions, effect of restrictions on demands, any emergency sources identified, etc.</li> </ul>
3. Objectives	<ul style="list-style-type: none"> <li>A. ❖ Identifies key objectives required to maintain a basic/restricted supply to all users. There is a need to consider social and environmental impacts.</li> <li>B. ❖ Tailor strategies relevant to the service areas.</li> <li>C. ❖ Endorse and implement a plan that minimises the risk of the community running out of water.</li> </ul>

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## Drought Management – Check List

Topic	Outcome Achieved
4. Data	<p>A. ❖ Identification of all communities served by the LWU's reticulated water supply, those with private reticulated water services and those with no reticulated water services within the service area(s).</p> <p>B. ❖ Identification of any properties, businesses, other LWUs etc. that may seek water in times of drought.</p> <p>C. ❖ Identification of all water requirements. Identify the normal and minimum potable and non-potable water requirements.</p> <p>D. ❖ Identify water dependent industry/businesses, any fire fighting requirements and opportunities for recycled water use.</p> <p>E. ❖ Includes a description and plan of all water supply schemes in the service area(s).</p> <p>F. ❖ Includes height/storage volume and height/surface area graphs for all water supply dams and weirs.</p> <p>G. ❖ Historical performance of rivers, dams, weirs and bores in previous droughts.</p> <p>H. ❖ Includes the average rainfall figures and evaporation rates.</p>
<p><b>Note:</b> All data to be specified on a daily basis.</p>	
5. Plan	<p>A. ❖ Demand management options.</p> <p>B. ❖ Restriction strategies including means and methods for the enforcement of restrictions and the expected results of imposing restrictions.</p> <p>C. ❖ Adopted schedule of trigger points for the timely implementation of appropriate water restrictions in order to minimise the risk of failure in times of drought.</p> <p>D. ❖ Availability of alternative water sources (including estimated costs and times to implement).</p> <p>E. ❖ Water cartage options.</p> <p>F. ❖ Identify legislation, local laws and council policies affecting the contingency arrangements.</p> <p>G. ❖ Links to water sharing plans/committees, water management plans/committees, irrigators, etc.</p>

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## Drought Management – Check List

Topic	Outcome Achieved
	<ul style="list-style-type: none"> <li>H. ❖ Impact of extraction on downstream stakeholders.</li> <li>I. ❖ Impact of reduced flows in watercourses.</li> <li>J. ❖ Level of prediction and intervention.</li> <li>K. ❖ Identify human resource requirements.</li> </ul>
6. Monitoring During Drought	<ul style="list-style-type: none"> <li>A. ❖ Daily monitoring of demands.</li> <li>B. ❖ Daily monitoring of water supply sources (dams, bores and streams).</li> <li>C. ❖ Monitoring impact of restrictions on consumption</li> <li>D. ❖ Monitoring the electrical conductivity, alkalinity and algae levels in the water sources.</li> </ul>
7. Consultation	<ul style="list-style-type: none"> <li>❖ Comprehensive media strategy and public consultation.</li> <li>❖ Regular consultation with appropriate government agencies (DWE, DECC, NSW Health etc).</li> </ul>
8. Operation of Drought Management Plan (DMP)	<ul style="list-style-type: none"> <li>A. ❖ DMP should discuss, analyse and identify any impact on other regions and localities ie. upstream, downstream or conjunctive water users.</li> <li>B. ❖ DMP should demonstrate a sustainable strategy that considers all other stakeholders.</li> <li>C. ❖ DMP documents an agreed procedure for progressive implementation of water restrictions.</li> </ul>

### REFERENCE

*Drought Management Guidelines*, NSW Local Government Water Directorate, December 2003.

For further information and assistance, please contact Stephen Palmer, Manager Planning on 8281 7331 or [Stephen.Palmer@dwe.nsw.gov.au](mailto:Stephen.Palmer@dwe.nsw.gov.au)



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## Appendix E - Water Supply and Sewerage Performance Reporting

### Check List – August 2007

Performance reporting and monitoring provide valuable data for enabling each Local Water Utility (LWU) to review and improve its performance. By examining trends in its performance indicators and benchmarking its performance against other similar utilities, an LWU can identify and rectify any areas of under-performance.

To provide a balanced view of the long-term sustainability of NSW water utilities, a Triple Bottom Line (TBL) accounting focus has been adopted, with performance reported on the basis of social, environmental and economic performance indicators.

Annual performance reporting and monitoring are required under National Competition Policy and the National Water Initiative, are important for public accountability and have been strongly endorsed by the NSW Government, the Independent Pricing and Regulatory Tribunal, the Local Government Association and the Shires Association.

This check list is essentially a road map to assist LWUs to quickly address the issues in their annual water supply and sewerage performance reporting and comprises the main elements of Reference 1 on page 72. It also highlights common errors in the preparation of these reports.

To achieve the required outcome for Water Supply and Sewerage reporting, LWUs must provide their completed annual water supply and sewerage performance reports and a draft of Special Schedules 3 to 6 and Notes 2 and 3 of their Special Purpose Financial Reports to the Department of Water and Energy by 15 September each year.

### Water Supply and Sewerage Performance Reporting - Check List

Topic	Activity	Common Errors
1. Population (Q1)	❖ Population Served (Q1a)	<ul style="list-style-type: none"> <li>▪ Population is generally not well reported by LWUs. It is often inconsistent from year to year and does not correlate well with the number of assessments and the number of connected properties.</li> </ul>
2. Assessments (Q4)	❖ Assessments (Q4)	<ul style="list-style-type: none"> <li>▪ Consider this element carefully as it is a key parameter which forms the basis for many performance indicators.</li> </ul>
3. Assets Employed (Q8 to Q11)	❖ Length of Mains (Q10)	
4. Sewage Collected (Sewerage Report Q12 to Q13)	❖ Volumes of Sewage Collected (Q12)	<ul style="list-style-type: none"> <li>▪ LWUs should provide a breakdown of volumes of sewage collected, particularly the residential and non-residential components.</li> </ul>



## Water Supply and Sewerage Performance Reporting - Check List

Topic	Activity	Common Errors
5. Water Consumption and Water Resources (Water Report Q12 to Q17)	❖ Annual Consumption and Water Losses (Q12)	<ul style="list-style-type: none"> <li>▪ LWUs should provide a breakdown of potable water consumption for each category of water use.</li> <li>▪ The sum of Q12a to Q12h should equal Q12i. System water loss (Q12k) is part of Q12h. LWUs should identify the fate of all water produced as shown in Figure 5.1 on page 71.</li> </ul>
6. Drinking Water Quality (Water Report Q42)	❖ Compliance with 2004 Australian Drinking Water Guidelines (ADWG)	<ul style="list-style-type: none"> <li>▪ In addition to reporting the required results, this involves compliance with the NSW Health Drinking Water Monitoring Program, including collecting the required number of samples and investigating and appropriately responding to any non-compliance.</li> </ul>
7. Special Schedules Nos 3 and 5 of Annual Financial Statements	❖ Financial Data	<ul style="list-style-type: none"> <li>▪ LWUs should ensure they report the breakdown of revenue into <b>residential</b> and <b>non-residential</b> (Items 6 and 7 respectively).</li> <li>▪ LWUs should be careful to exclude administration and engineering costs associated with the development of capital works projects from the LWU's management expenses reported in Item A1 of the Special Schedule Nos 3 and 5.</li> </ul>
8. 2-page Performance Reports	<ul style="list-style-type: none"> <li>❖ Review your LWU's latest 2-page TBL Performance Report and provide an Action Plan to Council. The Action Plan is to address any areas of under performance identified in the 2-page Reports which are provided to Council for each of water supply and sewerage (refer to example in page 47 of Ref 1).</li> <li>❖ Action Plan to include the key actions in LWU's Strategic Business Plan that are to be completed in the next financial year.</li> </ul>	



### Water Supply and Sewerage Performance Reporting - Check List

Topic	Activity	Common Errors
9. Auditing of Indicators	❖ LWUs with over 10,000 connected properties to arrange auditing of their core performance indicators in accordance with the auditing requirements of the National Performance Framework (Ref 2 and Ref 3). Audit of the 2006/07 data is required.	

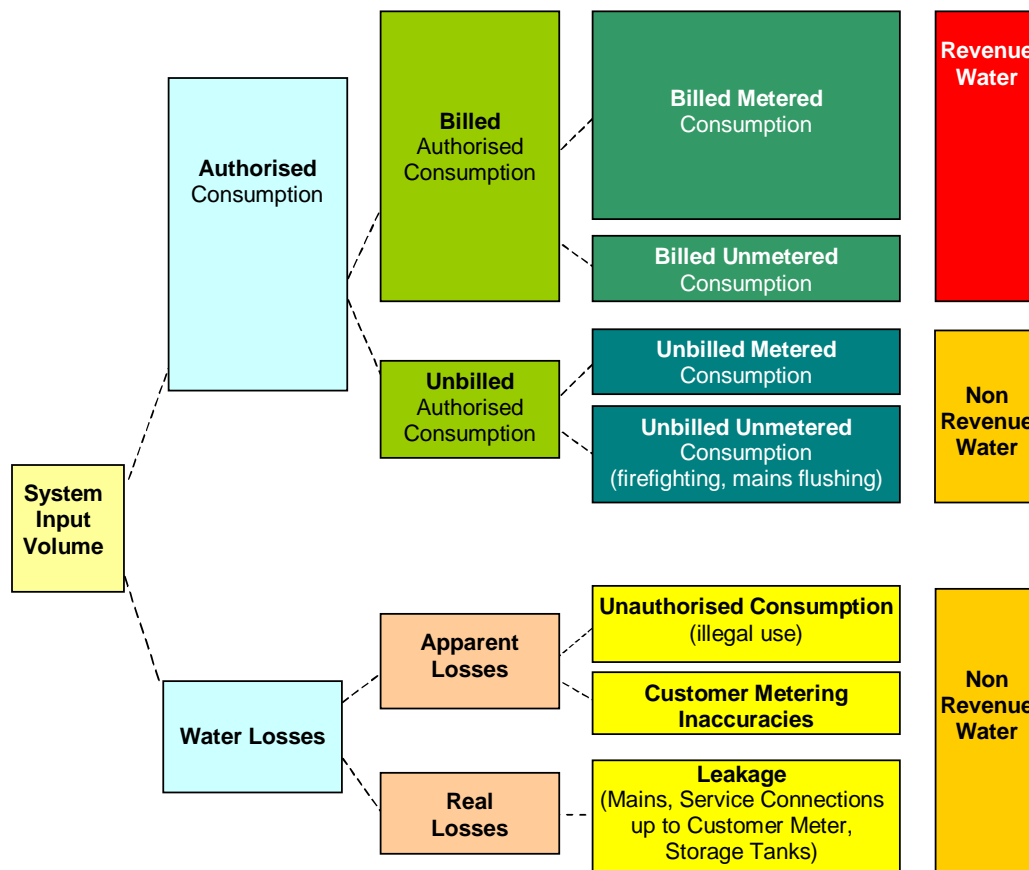


Figure 5.1 – Full Water Balance

Note that the International Water Association now defines unbilled, unmetered consumption (firefighting, mains flushing etc.) as authorised consumption and not as a water loss as previously defined (see Ref 4 overleaf).

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## REFERENCES

1. *2005/06 NSW Water Supply and Sewerage Performance Monitoring Report*, Department of Water and Energy and Local Government Association and Shires Association, NSW. An electronic copy of this report is available from the Department's website ([www.dewe.nsw.gov.au/water](http://www.dewe.nsw.gov.au/water))
2. *National Performance Framework – 2006-07 Urban Performance Reporting Indicators and Definitions*, National Water Commission/Water Services Association of Australia, May 2007.
3. *National Performance Framework – Auditing Requirements*, National Water Commission, November 2006.
4. *Losses from Water Supply Systems: Standard Terminology and Recommended Performance Measures*, International Water Association, October 2000.

## NOTES

1. Achievement of Items 8 and 9 are essential for meeting the performance reporting requirements in Table 1 on page 26 (criterion 5) of the *Best-Practice Management Guidelines*.
2. For further information, assistance and copies of the reference documents, please contact Graham Whyte, Manager Performance Reporting on 8281 7432 or [Graham.Whyte@dwe.nsw.gov.au](mailto:Graham.Whyte@dwe.nsw.gov.au)



## Appendix F - Integrated Water Cycle Management

### Check List – August 2007

Integrated Water Cycle Management (IWCM) is a means for Local Water Utilities (LWUs) to manage their water systems to maximize benefits. It involves the integration of the LWU's three main services – water supply, sewerage and stormwater – so that water is used optimally. It also involves the integration with other services (eg. roads and drainage and waste collection) and with various external requirements, particularly the NSW Water Reforms.

IWCM Strategies should be prepared in accordance with the guideline document *Integrated Water Cycle Management for NSW Water Utilities*, Department of Energy, Utilities and Sustainability, October 2004, or as updated.

This check list comprises the main activities that need to be included in the IWCM process.

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### Integrated Water Cycle Management – Check List

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Topic	Outcome Achieved
1. Minimum of a 30 year planning period	<ul style="list-style-type: none"> <li>❖ Includes regional planning strategies for development, water sharing and resource planning.</li> <li>❖ Adequate consideration of long term aspect of service provision including: funding, population projection, demographics, new development release areas, capital works needs for growth, improved levels of service and renewals.</li> </ul>
2. Integrated assessment of all urban water services, ie. water supply, sewerage and stormwater	<ul style="list-style-type: none"> <li>❖ Effective integration of solutions across the urban water service to optimise benefits.</li> <li>❖ Integrated planning within Council / LWU areas of operations.</li> </ul>
3. Listing of all requirements and obligations for the LWU	<ul style="list-style-type: none"> <li>❖ Clear description of all requirements for the LWU including: <ul style="list-style-type: none"> <li>▪ Legislative (health requirements, OH&amp;S)</li> <li>▪ Licences (extraction and discharge)</li> <li>▪ Levels of service (agreements with customers)</li> <li>▪ Legal (contractual)</li> <li>▪ Best-practice management (ie. the other 5 criteria)</li> </ul> </li> </ul>

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## Integrated Water Cycle Management – Check List

Topic	Outcome Achieved
4. Information collection across catchment, water resources, urban water services and water industry	<ul style="list-style-type: none"> <li>❖ Comprehensive list of all relevant and available information and data.</li> <li>❖ Identification of issues and any data gaps.</li> <li>❖ Comparison of LWU against others (using DWE Best Practice requirements and Performance Reports).</li> </ul>
5. Issue description	<ul style="list-style-type: none"> <li>❖ Accurate and comprehensive listing of all existing and foreseen issues relevant to the LWU.</li> <li>❖ Definition of issues using data or information which confirms failures to meet requirements and obligations.</li> <li>❖ Signoff from DWE of draft list of IWCM issues.</li> </ul>
6. Stakeholder consultation	<ul style="list-style-type: none"> <li>❖ Discussion, including issue identification and solution development with: <ul style="list-style-type: none"> <li>▪ Relevant water users</li> <li>▪ Customers</li> <li>▪ Consent authorities (eg. DECC, DWE)</li> <li>▪ Government agencies (eg. Health, DWE)</li> <li>▪ Community</li> </ul> </li> </ul>
7. Integrated solution	<ul style="list-style-type: none"> <li>❖ Integrated solution of identified issues across all urban water services.</li> <li>❖ Increased sustainability and cost effectiveness.</li> <li>❖ Full scenario development only where warranted<sup>1,2</sup>.</li> <li>❖ Clear identification of assumptions.</li> </ul>
8. Implementation process	<ul style="list-style-type: none"> <li>❖ Formal adoption by LWU.</li> <li>❖ Inclusion in Council's planning process, policies and budgets.</li> </ul>
9. Monitoring and review at least each 6 years	<ul style="list-style-type: none"> <li>❖ Clear timeframe for agreed actions and review and updating the IWCM Evaluation or IWCM Strategy within 6 years.</li> <li>❖ Clear monitoring process.</li> </ul>

Best-Practice Management of Water Supply and Sewerage Guidelines  
Appendix F




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## Integrated Water Cycle Management – Check List

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Topic	Outcome Achieved
10. DWE signoff	<ul style="list-style-type: none"> <li>❖ Achievement of Government objectives on water reforms and water industry reforms.</li> <li>❖ Economies of scale across the state.</li> </ul>

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### NOTES

1. Where an LWU requires little capital works over the next 10 years, full scenario development is not warranted. Such an LWU is required to complete an IWCM Evaluation by June 2007.
2. Where an LWU requires significant capital works over the next 10 years, full scenario development is required. Such an LWU is required to complete an IWCM Strategy by June 2008. The LWU is also required to implement IWCM in accordance with its Strategy by June 2008.
3. For further information, assistance and copies of the reference document, please contact George Freeman, Manager Integrated Water Cycle Management on 8281 7341 or [George.Freeman@dwe.nsw.gov.au](mailto:George.Freeman@dwe.nsw.gov.au)



# TENDERS

## Department of Commerce

### SUPPLIES AND SERVICES FOR THE PUBLIC SERVICE

Information in relation to the Department of Commerce proposed, current and awarded tenders is available on:

<http://www.tenders.nsw.gov.au>

# PRIVATE ADVERTISEMENTS

## COUNCIL NOTICES

### BLACKTOWN CITY COUNCIL

Local Government Act 1993 and Roads Act 1993  
Land Acquisition (Just Terms Compensation) Act 1991  
Notice of Rescission of Compulsory Acquisition of Land  
IN pursuance of section 31 of the Land Acquisition (Just Terms Compensation) Act 1991, Her Excellency the Governor, with the advice of the Executive Council, does by this notice rescind in whole the acquisition notice published by Blacktown City Council in Government Gazette No. 139 of 17 November 2006 relating to the compulsory acquisition of Lots 1 and 2, DP 1098904.

Signed at Government House on the 4th day of July 2007.

(DLG Ref 06/0815).

PROFESSOR MARIE BASHIR, A.C., C.V.O.,  
Governor

By Her Excellency's Command

HON PAUL LYNCH, M.P.,  
Minister for Local Government

Roads Act 1993 and Local Government Act 1993  
Land Acquisition (Just Terms Compensation) Act 1991  
Notice of Compulsory Acquisition of Land

BLACKTOWN CITY COUNCIL declares, with the approval of Her Excellency the Governor, that the land described in Schedule 1 below, excluding mines and minerals in the land and excluding the interests in Schedule 2 to this notice are acquired by compulsory process in accordance with the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purpose of the Local Government Act 1993 (open space) and for the purpose of the Roads Act 1993 (public road).

Dated at Blacktown this 16th day of August 2007. RON MOORE, General Manager, Blacktown City Council.

#### SCHEDULE 1

Lot 1, DP 1098904 (open space)  
Lot 2, DP 1098904 (public road)

#### SCHEDULE 2

Easement for Transmission Line 30.48 wide (vide G643601)

Easement for Transmission Line (vide 15783-300) Vide Gov. Gaz 11.05.56 Fol. 1327

Easement for Transmission Line 30.48 wide (vide H467381) [3474]

### BURWOOD COUNCIL

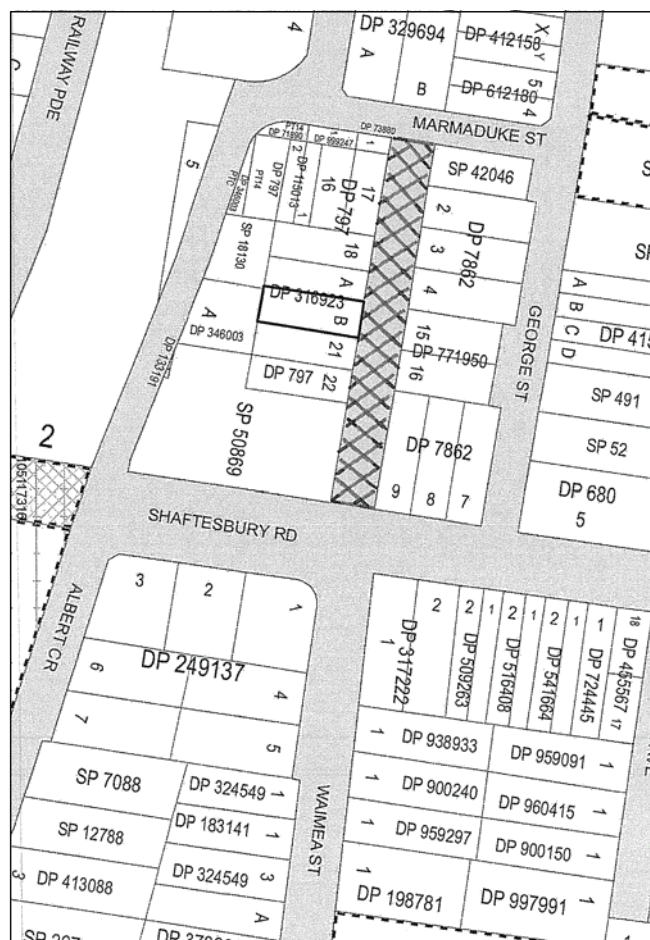
Roads Act 1993, Section 16

Dedication of Land as Public Road

NOTICE is hereby given that Burwood Council in pursuance of section 16 of the Roads Act 1993, dedicates the land described in the Schedule as public road. P. ROMANO, General Manager, Burwood Council, PO Box 240, Burwood NSW 1805.

#### SCHEDULE

That part of Waimea Street, Burwood, being the land contained in Deed of Conveyance dated 9 April 1856 Number 660 Book 45, Parish of Concord, County of Cumberland and Local Government Area of Burwood, as shown cross-hatched on the accompanying plan.



[3475]

**FORBES SHIRE COUNCIL**

## Roads (General) Regulation 2000

NOTICE is hereby given that the FORBES SHIRE COUNCIL, in pursuance of division 2 of the above mentioned Regulation, proposes to name the road as shown hereunder:

<i>Present Name</i>	<i>Proposed Name</i>
Unnamed road running in a westerly direction from Farnell Street, being Lots 26 and 27, DP 1060198	Watson Close

Authorised by resolution of the Council on 21 June 2007. [3476]

**RIVERINA WATER COUNTY COUNCIL**

## Local Government Act 1993, Section 553

## Extension of Watermains

NOTICE is hereby given pursuant to section 553 of the Local Government Act 1993, that Riverina Water County Council's water mains have been extended to service the lands described hereunder:

## Wagga Wagga

Bourklands Stage 18A – Kaloona Dr: From hydrant in front of Lot No. 16, southwest for a distance of 321 metres. Burrandulla Rd: From Kaloona Dr, south for a distance of 85 metres.

Drawing No.: 1-2692  
May 2007

Estella Stage 3 – Franklin Dr: From hydrant in front of Lot No. 8, south for a distance of 580 metres. Alma Crescent: From Franklin Dr, west for a distance of 54 metres.

Dundale Circuit: from Alma Crescent, southwest for a distance of 299 metres, then south for a distance of 92 metres to Franklin Dr.

Drawing No.: 1-3096  
May 2007

Bomen Road – Bomen Rd: From corner of Byrnes Rd, west for a distance of 191 metres to Dorset St.

Drawing No.: 1-2007  
May 2007

East Gregadoo – Gregadoo Rd: From Stop Valve at Ashfords Rd, southeast for a distance of 1330 metres. Ivydale Road: from Gregadoo Rd, south for a distance of 150 metres.

Drawing No.: 1-3097  
May 2007

## Rural

Milbrulong-service – Natal St: from main in lane between Roberts and Cape Streets, south for a distance of 88 metres to Lot 9, section 5 Cape St.

Drawing No.: 3-252  
Apr 2007

The owners of all lands within the prescribed distance will be liable for water supply charges as from the expiration of twenty-one (21 days) after the publication of this notice, or the date of connection of the properties to the water main, whichever is the earlier date. G. W. PIEPER, General Manager, Riverina Water County Council, PO Box 456, Wagga Wagga NSW 2650. [3477]

**TWEED SHIRE COUNCIL**

## Roads Act 1993

## Naming of Public Bridge

NOTICE is hereby given that the Tweed Shire Council, in pursuance of section 162 of the Roads Act 1993, has named the newly upgraded bridge over the Rous River, Numinbah Road, Crystal Creek as

## Korns Bridge

Authorised by resolution of the Council on 21 August 2007, General Manager, Tweed Shire Council, Civic Centre, Tumbulgum Road, Murwillumbah NSW 2484. [3478]

**MUSWELLBROOK SHIRE COUNCIL**

## Sale of Land for Overdue Rates and Charges

## Local Government Act 1993

NOTICE is hereby given to the persons named hereunder that the Council of the Shire of Muswellbrook has resolved in pursuance of section 713 of the Local Government Act 1993 to sell the land described hereunder (of which the persons named hereunder appear to be the owners or in which they appear to have an interest) and on which the amount of rates and charges states in each as at 30 June 2007 is due:

<i>Owners or persons having an interest in land</i>	<i>Description of Land (Lot Section and Deposited Plan Nos, Street)</i>	<i>Amount of rates and charges overdue for more than five (5) years</i>	<i>Interest accrued on amount in column (c)</i>	<i>Amount of all other rates and charges due and in arrears</i>	<i>Interest accrued on amount in column (e)</i>	<i>Total</i>
(a)	(b)	(c)	(d)	(e)	(f)	(g)
R Kemp	Lot 190 in DP 661505 in Queen Street, Muswellbrook	\$NIL	\$NIL	\$2,491.54	\$517.47	\$3,009.01

In default of payment to the Council of the amount stated in column (g) above and any other rates (including extra charges) becoming due and payable after publication of this notice, or an arrangement satisfactory to the Council for payment of all such rates being entered into by the rateable person before the time fixed for sale, the said land will be offered for sale by Public Auction by Boyle Estate Agents, Muswellbrook at the Council Administration Centre, Maitland Street, Muswellbrook on Saturday, 8 December 2007 at 10am. S. J. McDONALD, General Manager, PO Box 122, Muswellbrook NSW 2333.

[3479]

**ESTATE NOTICES**

NOTICE of intended distribution of estate. – Any person having any claim upon the estate of HELENA ALMA STEELE, late of Castlecrag, in the State of New South Wales, who died on 28 April 2007, must send particulars of their claim to the executors, Alan Terry Steele and Chris James Steele c.o. Messrs Barton & Co, Solicitors, PO Box 344, Hornsby NSW 1630, within one (1) calendar month from publication of this notice. After that time the executors may distribute the assets of the estate having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 19 June 2007. MESSRS BARTON & CO, Solicitors, 128/121-133 Pacific Highway, Hornsby, NSW 2077 (PO Box 344), tel.: (02) 9476 1744. Reference: DFB/RS. [3480]

**COMPANY NOTICES**

NOTICE of voluntary liquidation.–In the matter of the Corporations Law and in the matter of SRJ INVESTMENT SERVICES PTY LIMITED, ACN 091 756 731 (in voluntary liquidation).–Notice is hereby given that at a general meeting of members, duly convened and held at the offices of Messrs Pringle Moriarty & Co., Chartered Accountants, Suite 12C, 44 Oxford Road, Ingleburn NSW 2565, on Thursday 24 August 2007 at 10:30 a.m., the following resolution was passed as a special resolution: “That the company be wound up voluntarily and that Stanley Moriarty be appointed liquidator for the purposes of the winding up”. STANLEY MORIARTY, Liquidator, c.o. Pringle Moriarty & Co., Chartered Accountants, Suite 12C, 44 Oxford Road (PO Box 818), Ingleburn NSW 2565, tel.: (02) 9605 1344. [3481]

NOTICE of members voluntary liquidation.–Section 491 (2) of the Corporations Act 2001.–At a meeting of K & V HOWARD PTY LIMITED (In Liquidation), ACN: 001 319 375, held at Suite 15, 838 Old Princes Highway, Sutherland NSW 2232 on 1 August 2007, a special resolution was passed “that the Company be wound up and that Mr Gordon Shrubsole be appointed Liquidator”. Dated 23 August 2007. GORDON SHRUBSOLE, Liquidator, c.o. Shrubsole & Rabbitt Services Pty Limited, Suite 15, 838 Old Princes Highway, Sutherland NSW 2232. [3482]

**OTHER NOTICES**

Form 4.

**CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947**

Registration of Trustees. Certificate No. 174

IN accordance with the provisions of Part V of the above Act the Rockdale Community Church of Christ having made application for the registration of the Churches of Christ Property Trust as Church Trustee under section 27 of the said Act and having done all things necessary for such registration it is hereby certified that the Church Trustee of the said Church of Christ as from the date of this certificate is the Churches of Christ Property Trust. Dated at Marrickville this sixteenth day of August 2007. JOHN A. HOPPITT, Registrar [3483]

Form 2.

**CHURCHES OF CHRIST IN NEW SOUTH WALES INCORPORATION ACT 1947**

Registration Certificate No. 155

IN accordance with the provisions of Part V of the above Act the Rockdale Community Church of Christ having complied with the requirements of the said Act and made application for registration under the said Act and such application having been duly approved by the Churches of Christ Property Trust it is hereby certified that the said Church of Christ has been registered under the above Act as a church entitled to the benefits of the said Act. Dated at Marrickville this sixteenth day of August 2007. JOHN A. HOPPITT, Registrar [3484]